

No. _____
In the Supreme Court of the United States

Wendy Alison Nora,
Petitioner

v.

Office of Lawyer Regulation,
Respondent

APPENDICES TO
PETITION FOR A WRIT OF CERTIORARI TO THE
SUPREME COURT OF WISCONSIN

Wendy Alison Nora, Petitioner, and
a member of the bar of this Court
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APPENDIX A

SUPREME COURT OF WISCONSIN

CASE No.: 2015AP2442-D

COMPLETE TITLE: In the Matter of Disciplinary Proceedings
Against Wendy Alison Nora, Attorney at Law:

Office of Lawyer Regulation,
Complainant-Cross-Appellant-
Respondent,
v.
Wendy Alison Nora,
Respondent-Appellant-Cross-Respondent.

DISCIPLINARY PROCEEDINGS AGAINST NORA

OPINION FILED: July 14, 2020
SUBMITTED ON BRIEFS:
ORAL ARGUMENT: October 28, 2019

SOURCE OF APPEAL:
COURT:
COUNTY:
JUDGE:

JUSTICES:
Per Curiam.
NOT PARTICIPATING:

ATTORNEYS:
For the respondent-appellant-cross-respondent, there were
briefs filed by *Wendy Alison Nora* and *Access Legal Services*,
Minneapolis, Minnesota. There was an oral argument by *Wendy*
Alison Nora.

For the complainant-respondent-cross-appellant, there were
briefs filed by *Paul W. Schwarzenbart* and *Office of Lawyer*
Regulation, Madison. There was an oral argument by *Paul W.*
Schwarzenbart.

2020 WI 70

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 2015AP2442-D

STATE OF WISCONSIN

:

IN SUPREME COURT

**In the Matter of Disciplinary Proceedings
Against Wendy Alison Nora, Attorney at Law:**

Office of Lawyer Regulation,

Complainant-Cross-Appellant-Respondent,

v.

Wendy Alison Nora,

Respondent-Appellant-Cross-Respondent.

FILED**JUL 14, 2020**

Sheila T. Reiff
Clerk of Supreme Court

ATTORNEY disciplinary proceeding. *Attorney's license suspended.*

¶1 PER CURIAM. Attorney Wendy Alison Nora appeals from various interlocutory orders and a final report issued by the referee, Attorney James Winiarski. Attorney Nora challenges the conduct of the proceeding by the Office of Lawyer Regulation (OLR) and Referee Winiarski, as well as the referee's findings of fact and his legal conclusions that she engaged in professional misconduct as alleged in Counts 2, 3, and 5 of the OLR's second amended complaint. She also challenges his

recommendation that this court should suspend her license to practice law in Wisconsin for a period of two years.

¶2 The OLR has filed a cross-appeal from the referee's legal conclusions that Counts 1 and 4 of its second amended complaint should be dismissed on due process grounds because those counts failed to specify which subsections of Supreme Court Rule (SCR) 20:3.1(a) Attorney Nora's conduct had violated.

¶3 We reject Attorney Nora's arguments on appeal and conclude that the OLR proved violations of the Rules of Professional Conduct for Attorneys on all five counts of the second amended complaint. We do not agree with the referee's conclusion that Counts 1 and 4 should be dismissed on due process grounds because we determine that Attorney Nora forfeited any due process notice challenge by not raising it before the referee. Had she raised the issue in a timely manner before the referee, the OLR could have amended its complaint to more fully specify the subsections at issue. Moreover, the OLR's complaints did specify the particular actions by her that constituted violations of the rule. Attorney Nora had notice of the allegations against her.

¶4 We further conclude that the appropriate level of discipline to impose upon Attorney Nora for her professional misconduct is a further two-year suspension of her license to

practice law in this state.¹ Given the nature of her misconduct at issue in this proceeding, we do not require her to pay any restitution. We do, however, require that if Attorney Nora seeks the reinstatement of her license, her reinstatement petition must allege that she has made a good faith effort to pay all outstanding amounts that she personally owes as a result of sanction orders imposed by any court, and she must prove that good faith effort as one of the conditions of reinstatement.

¶5 Because the OLR has requested that we not impose the costs of this proceeding on Attorney Nora, we do not impose any costs.

¶6 Attorney Nora was admitted to the practice of law in this state in June 1975. She was also licensed to practice law in the state of Minnesota in 1985. She most recently practiced law under the name Access Legal Services in Minneapolis, Minnesota.

¶7 Attorney Nora has been the subject of professional discipline in this state on two prior occasions. In 1993 this court suspended Attorney Nora's license to practice law in Wisconsin for 30 days, as discipline reciprocal to that imposed by the Supreme Court of Minnesota. In re Disciplinary

¹ Attorney Nora's license to practice law in Wisconsin is currently suspended as discipline for professional misconduct in a previous disciplinary proceeding. In re Disciplinary Proceedings Against Nora, 2018 WI 23, 380 Wis. 2d 311, 909 N.W.2d 155 (Nora II). Attorney Nora's license is also administratively suspended due to her failure to pay mandatory bar dues and her failure to file a trust account certification.

Proceedings Against Nora, 173 Wis. 2d 660, 495 N.W.2d 99 (1993) (Nora I). The misconduct that resulted in that suspension involved making misrepresentations concerning the reopening and capitalization of a bank, failing to adequately investigate the person who was to provide capital to the bank, improperly authorizing the issuance of cashier checks by the bank, bringing a frivolous claim against a bank, transferring assets of her Minnesota law partnership in an attempt to insulate those assets from collection, bringing litigation primarily as a delay tactic, and asserting a legal theory not justified by existing law. Nora I, 173 Wis. 2d at 660-61; see also In re Disciplinary Action Against Nora, 450 N.W.2d 328 (Minn. 1990).

¶8 In 2018 this court suspended Attorney Nora's license to practice law in this state for a period of one year, effective April 30, 2018. Nora II, 380 Wis. 2d 311, ¶42. In that case this court determined that the OLR had proven four counts of professional misconduct arising out of her actions in defending a foreclosure action against her own property and in bringing three federal civil actions against the state court judge presiding over the foreclosure action and against opposing counsel in the foreclosure action. Specifically, this court concluded that Attorney Nora had made a false statement of material fact to a tribunal, in violation of SCR 20:3.3(a)(1). Id., ¶27. We also determined that in each of the three federal actions, Attorney Nora had knowingly advanced claims that lacked a valid legal basis and had pursued the claims merely to harass

or maliciously injure another. Id., ¶¶29 and 30 (finding three violations of SCR 20:3.1(a)).

PROCEDURAL HISTORY OF THIS PROCEEDING

¶9 Some procedural facts about this disciplinary proceeding are necessary for an understanding of certain legal conclusions by the referee and of certain issues on appeal.

¶10 On November 30, 2015, the OLR filed its original complaint in this proceeding, which alleged five counts of professional misconduct by Attorney Nora arising out of two client representations. Counts 1-3 arose out of Attorney Nora's actions connected to her representation of Sheila Spencer (the Spencer matter). Count 1 alleged that Attorney Nora had violated Supreme Court Rule (SCR) 20:3.1(a) as follows:

By removing a state court foreclosure matter to the federal court after four years of litigation when there was no colorable basis for federal jurisdiction, and, by filing a frivolous motion to reconsider the order remanding the matter back to the state court, [Attorney] Nora violated SCR 20:3.1(a).

Count 2 alleged that by filing a frivolous appeal on behalf of both her client and herself personally when she was not a party to the litigation and by engaging in an ongoing pattern of conduct to harass other parties and judicial officers and to delay the proceedings, Attorney Nora violated SCR 20:3.2. Count 3 alleged that by engaging in an ongoing pattern of conduct to harass other parties and judicial officers and to delay the proceedings, Attorney Nora violated the Attorney's Oath in SCR 40.15, which is enforced via SCR 20:8.4(g).

¶11 Counts 4-5 arose out of Attorney Nora's actions connected to her representation of Roger and Desa Rinaldi (the Rinaldi matter). Count 4, like Count 1, alleged that Attorney Nora had violated SCR 20:3.1(a) in the Rinaldi matter as follows:

. . . by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P.² 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned [Attorney] Nora that any further frivolous submissions would result in an award of sanctions, [Attorney] Nora violated SCR 20:3.1(a).

Count 5 tracked Count 2 in that it alleged that by filing a motion to intervene personally and a motion for relief from the federal district court's prior order, both of which were found to be frivolous, Attorney Nora violated SCR 20:3.2.

¶12 Attorney Nora filed combined motions to dismiss the original complaint on several grounds. Before the referee decided these motions, the OLR filed a first amended complaint, which did not change any of the counts alleged against Attorney Nora, but simply corrected some factual allegations in the original complaint. The referee's subsequent scheduling order provided that Attorney Nora's pending motions would apply to the first amended complaint and permitted Attorney Nora to file any additional motions regarding the first amended complaint within 20 days. Attorney Nora filed a "supplement" to her motions to dismiss, as well as a "notice of filing" of a proposed modified

² This is a citation abbreviation for "Federal Rule of Civil Procedure ____."

amended complaint that excluded facts Attorney Nora contended were false.

¶13 Attorney Nora's motions did not assert that either the original complaint or the first amended complaint violated her due process rights because Counts 1 and 4 of those complaints failed to specify the subsection of SCR 20:3.1(a) that Attorney Nora had violated.

¶14 On April 16, 2016, the referee denied Attorney Nora's motions to dismiss the original and first amended complaint. He gave Attorney Nora 20 days in which to file an answer to the first amended complaint.

¶15 On May 20, 2016, Attorney Nora filed a "Corrected Motion to Dismiss and Answer."³ Attorney Nora asserts on appeal that in a subpart of this document responding to Count 4 of the first amended complaint (paragraph 90), she alleged that paragraph 90 of the first amended complaint failed to specify which subsection of SCR 20:3.1(a) she had violated in the Rinaldi matter. She does not assert on appeal that she ever made a similar allegation regarding Count 1. Further, her reference to paragraph 90 in this document never alleged that the OLR's failure to specify the subsection of SCR 20:3.1(a) constituted a due process violation.

³ A few days before filing this motion and answer, Attorney Nora filed two other motions: (1) a motion for damages pursuant to Wis. Stat. § 894.044 and (2) a motion to disqualify Attorney Paul Schwarzenbart from representing the OLR in this proceeding (allegedly due to his conflict of interest as a material witness to crimes supposedly committed in Nora II).

¶16 On June 3, 2016, the OLR filed a motion seeking leave to file a second amended complaint. The purpose of the second amended complaint was to correct two minor errors in the amended complaint, including the listing of the wrong circuit court case number for the foreclosure action against Sheila Spencer.

¶17 On August 1, 2016, the referee issued another order that denied Attorney Nora's pending motions and granted the OLR's motion to file a second amended complaint. The OLR subsequently filed a second amended complaint, as permitted. The second amended complaint did not change the nature of the counts alleged against Attorney Nora, nor the specific actions by her that allegedly violated the specified Rules of Professional Conduct for Attorneys.

¶18 Ultimately, after some further proceedings in the case, Attorney Nora filed a "notice of filing" of four different versions of a revised answer to the second amended complaint. Attorney Nora did not allege that the lack of specified subsections in Counts 1 and 4 violated her due process right to notice of the charges against her.

¶19 After the referee granted a series of motions by Attorney Nora and her co-counsel to adjourn the evidentiary hearing, the referee conducted the disciplinary hearing in this matter over four days in March 2017. The referee issued a post-hearing order directing the OLR to file a post-hearing brief within 45 days from the filing of the hearing transcript and Attorney Nora to file her post-hearing brief within 45 days after the OLR filed its brief. After the referee granted

another series of extension motions, the post-hearing briefing was completed in February 2018. Attorney Nora's post-hearing brief did not allege that the reference to SCR 20:3.1(a) rather than to one or more subsections of that rule violated her due process rights.

¶20 While working on his report, the referee became concerned with whether the lack of specification in Counts 1 and 4 of the applicable subsection(s) of SCR 20:3.1(a) violated Attorney Nora's due process rights. He ordered the parties to submit supplemental post-hearing briefs on this issue, which they did.

FINDINGS OF FACT AND CONCLUSIONS OF LAW CONCERNING COUNTS 1-3

¶21 The following facts were found by the referee in his report.

¶22 In April 2009, FNMC filed a foreclosure action in the Wood County circuit court against Sheila Spencer. FNMC v. Spencer, Wood County Case No. 2009CV283 (the Spencer Wood County Case). Ms. Spencer was initially represented by another attorney. That attorney was allowed to withdraw in April 2012, and Attorney Nora filed a notice of appearance on behalf of Ms. Spencer in May 2012. Attorney Nora initially appeared at a May 23, 2012 hearing that had been scheduled as a summary judgment hearing, and asked for a postponement of the hearing. Judge Gregory Potter, who was presiding over the case, granted Attorney Nora's requested postponement and directed her to file a list of issues that she believed needed to be resolved by June 29, 2012.

¶23 Attorney Nora did not file the list of issues as ordered. On June 23, 2012, she filed a "Notice of Continuing Objection to Further Proceedings." She filed an amended "Continuing Notice" on June 25, 2012. In these "Continuing Notices," she alleged that Gray and Associates, S.C. (the Gray Firm) had made multiple fraudulent filings in the Spencer Wood County Case. She also alleged that she had not been served with a copy of a proposed order that Judge Potter had signed on June 12, 2012. She claimed that the lack of service of the draft order was part of "an actual pattern and practice by Judge Potter and [the Gray Firm], acting in concert, to effectuate a fraudulent foreclosure against Sheila M. Spencer and her home." Attorney Nora claimed that Judge Potter's signing of the allegedly improper ex parte order meant that the "entire record of the proceedings must be reviewed in light of the apparent collaboration between Judge Potter and [the Gray Firm]." Attorney Nora further accused Judge Potter of "manipulat[ing]" both the record and the foreclosure action generally to assist the Gray Firm in depriving Ms. Spencer of a chance to defend against the foreclosure:

The manipulation of the Transcript to remove some of the most damning evidence of bias . . . discloses a whole new issue: that **Judge Potter is complicit in the manipulation of the proceedings and of the record.** (Emphasis added.)

¶24 On June 27, 2012, Attorney Nora filed an extension motion and an "Affidavit of Nonreceipt of Motion for Proposed Order and Final Order." In the affidavit, Attorney Nora claimed

that she had not received the order dated June 12, 2012, and that she had been shocked to find that the court had entered an order resulting from the May 23rd hearing without a motion for entry of such an order being served on her. The affidavit further stated that the court's clerk had told Attorney Nora that someone from the Gray Firm had sent a letter and a proposed order to Judge Potter. Attorney Nora did not contact the Gray Firm to obtain a copy of the letter to see if she had been copied on it; instead, she alleged in her affidavit that the letter and enclosed draft order had been an "ex parte communication with the Court."

¶25 The very next day (June 28, 2012) Attorney Nora filed a motion to disqualify Judge Potter for "repeatedly engaging in or facilitating ex parte communications and entering ex parte orders." In the motion Attorney Nora described the Spencer Wood County Case as a "mockery of justice" and as "misbegotten proceedings." Attorney Nora acknowledged that she had received a copy of the Gray Firm's letter and draft order from her client. The letter showed that a carbon copy had been sent to Attorney Nora. The referee found that Attorney Nora could not explain how Judge Potter would have known that she did not receive a copy of the letter and draft order when she was shown on the letter as receiving a carbon copy.

¶26 Attorney Nora did not stop with accusing Judge Potter of engaging in ex parte communications in this one instance; she alleged that Judge Potter and the Gray Firm had engaged in multiple instances of ex parte communications and ex parte

orders prior to her appearance in the case,⁴ although Attorney Nora had no firsthand knowledge of the other instances she alleged. Attorney Nora went so far as to assert that **"[a] reasonable inference arises from these facts that Judge Gregory J. Potter has colluded with GRAY & ASSOCIATES, LLP to circumvent proper practice and procedure by engaging in and facilitating ex parte communications by which orders have been entered by the court."** (Emphasis added.) Attorney Nora demanded that Judge Potter recuse himself immediately.

¶27 At a hearing on August 8, 2012, Judge Potter denied Attorney Nora's recusal motion. On August 13, 2012, Attorney Nora finally filed the list of issues that she had been ordered to file by June 29, 2012. Her list of issues again repeated her allegation that Judge Potter and the Gray Firm had engaged in improper ex parte communications.

¶28 On October 3, 2012, Attorney James Carrig first appeared for the plaintiff, which caused Attorney Nora to file a motion to strike his appearance. Judge Potter held a hearing on Attorney Nora's motion and on whether PNC Bank should be substituted as the plaintiff in the action. Following the hearing, Attorney Carrig filed a formal motion to "ratify the

⁴ An affidavit by an employee of the Gray Firm that was filed in this proceeding stated that on the date of one such alleged ex parte communication, Ms. Spencer had been served with a copy of the notice of motion and motion. The court record shows that on the other occasions of alleged ex parte communications, the letters and enclosed documents were copied to Ms. Spencer.

action or substitute PNC Bank as the party plaintiff." Ultimately, the circuit court granted the motion to substitute PNC Bank and set a hearing date of March 18, 2013, for the hearing on the plaintiff's summary judgment motion (which had been pending since before Attorney Nora had joined the case).

¶29 Attorney Nora responded to this development by filing a notice of removal of the action to the United States District Court for the Western District of Wisconsin on January 10, 2013. Attorney Nora alleged that the removal was proper under 28 U.S.C. §§ 1331, 1332, 1334, and 1349 (i.e., both diversity and federal question jurisdiction). PNC Bank filed a motion for remand, which the district court, Judge Barbara Crabb presiding, granted. Judge Crabb also granted an award of attorney fees and costs to PNC Bank (apparently against Ms. Spencer, but not Attorney Nora).

¶30 On April 8, 2013, Attorney Nora filed a motion for reconsideration of Judge Crabb's remand order. Attorney Nora claimed in this disciplinary proceeding that she had not sought reconsideration of the remand order, but only of the award of attorney fees and costs. The referee found, however, that the reconsideration motion was not limited to addressing the award of costs and fees, noting that 41 of the 43 paragraphs in Attorney Nora's reconsideration motion asserted that Judge Crabb had erred in remanding the case back to state court. Indeed, the prayer for relief in the reconsideration motion "request[ed] that the court reconsider the Order remanding this case to state court entered on March 25, 2013 for its clear errors of law in

failing to acknowledge and exercise its original jurisdiction"

¶31 Judge Crabb ultimately denied the motion for reconsideration, holding that the district court lacked jurisdiction to reconsider its remand order. Judge Crabb also held that because Spencer had not had "an objectively reasonable argument supporting federal jurisdiction," it was appropriate to award PNC Bank the fees it had incurred in moving to remand the case. In other words, Judge Crabb found the removal to be frivolous. Attorney Nora filed a second motion for reconsideration, which rehashed the same arguments and included a statement that the federal district court "is wrong." The second reconsideration motion was also denied. Judge Crabb awarded PNC Bank its costs and fees in opposing the two reconsideration motions. Although the referee's findings do not say so explicitly, it appears that the district court entered judgment for the fees and costs against Ms. Spencer, not against Attorney Nora. The total of the cost judgment was \$4,928.47 in favor of PNC Bank.

¶32 Attorney Nora filed a notice of appeal from Judge Crabb's orders granting remand and denying her two reconsideration motions. In the notice of appeal and in an amended notice, Attorney Nora identified herself as a defendant-appellant "individually and in her capacity as counsel for Sheila M. Spencer." The referee found that Attorney Nora had not filed any document seeking to be made a party to the case before she filed her initial and amended notices of appeal. He

also explicitly found that "[Attorney] Nora knew that remand orders were not appealable under Title 28 of the United States Code."

¶33 The United States Court of Appeals for the Seventh Circuit issued an order directing Attorney Nora and her client to file a memorandum explaining why the appeal should not be dismissed for lack of jurisdiction. In her memorandum, Attorney Nora claimed that she had "the right and indeed the obligation to appear in her individual name and capacity as an aggrieved party" because she was the "target" of the sanctions imposed by the district court and she was "ethically obligated to indemnify Spencer for the cost and fee judgment." Nora also included a statement that **"Judge Crabb has engaged in a campaign of libel against Nora which will be addressed in the appropriate fora."** (Emphasis added.)

¶34 Before the Seventh Circuit could rule, however, Attorney Nora filed a bankruptcy petition on behalf of Ms. Spencer, which delayed briefing on the Spencer appeal for a little less than five months. Ultimately, on August 13, 2014, the Seventh Circuit issued a decision dismissing the appeal filed by Attorney Nora, concluding that there had been "no objectively reasonable basis for federal jurisdiction or removal" and that the appeal had been frivolous.⁵ The Seventh

⁵ The Seventh Circuit ultimately awarded PNC Bank over \$25,000 in attorney fees and costs in responding to the frivolous appeal.

Circuit ordered Attorney Nora to show cause why she should not be sanctioned for pursuing a frivolous appeal.

¶35 Attorney Nora filed an initial response to the Seventh Circuit's order to show cause just two days later. In her initial response, she claimed that the Seventh Circuit's decision contained "numerous factual findings for which there is no evidence in the record, for which judicial notice was not properly taken and which are offered to be proved to be clearly erroneous." Attorney Nora also rehashed her arguments regarding removal and repeated her claim that Judge Crabb had libeled her by removing the seal from her medical records in a completely unrelated case. Indeed, Attorney Nora claimed that Judge Crabb was in contempt of a Seventh Circuit order by removing the seal.⁶

¶36 The Seventh Circuit ordered Attorney Nora to file "one proper response" to four questions listed in the order. Instead of complying with the Seventh Circuit's order, Attorney Nora filed a petition for rehearing en banc, in which she again repeated all of the removal/remand arguments she had made before. The Seventh Circuit denied the petition. Attorney Nora then moved for a stay so she could file a certiorari petition in the U.S. Supreme Court, but she never actually filed the certiorari petition.

⁶ The referee found from a copy of Judge Crabb's decision in the other case, which was admitted into evidence in this proceeding, that the basis for the ruling was that Attorney Nora had failed to file the documents under seal pursuant to an existing protective order and had not moved to seal them.

¶37 Despite the Seventh Circuit's directive to file "one response," on September 14, 2014, Attorney Nora filed a document entitled "Partial Response to Order to Show Cause." In that document, she denied that she had accused Judge Potter and his court reporter of "fraudulently manipulating transcripts." She also included a number of accusations against the Seventh Circuit and lower courts in the circuit. Specifically, she stated, **"The bias of this panel and many of the judges in this circuit against homeowners' rights to be heard and defend their homes is apparent in every disputed sentence of the 'findings' in the panel's decision."** (Emphasis added.) She also asserted that a number of the statements in the Seventh Circuit's decision were "false," including that she had accused Judge Potter, opposing counsel, and the court clerk of colluding to conceal the contents of an order, that she had accused the court reporter of intentionally manipulating a hearing transcript at Judge Potter's direction, and that she had demanded that Judge Potter recuse himself. On October 17, 2014, Attorney Nora filed a motion for a continuance of the show cause hearing allegedly due to medical reasons. The Seventh Circuit denied Attorney Nora's motion for a continuance, but it allowed her to appear for the hearing by speakerphone. Although she had asserted an inability to appear due to medical reasons, Attorney Nora appeared in person for the October 28, 2014 show cause hearing. Ultimately, the Seventh Circuit imposed a \$2,500 sanction on Attorney Nora for frivolous and needlessly antagonistic filings. In its sanction order, the Seventh Circuit stated that Attorney

Nora had failed to comply with its order to limit herself to "one proper response" to the court's order to show cause. It also described Attorney Nora's petition for rehearing en banc as "rehashing her frivolous appellate arguments." It stated that Attorney Nora had engaged in "conduct unbecoming a member of the court's bar." It explained the basis for its sanction as follows:

Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial; she not only made the accusation but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions.

¶38 On March 10, 2014, when the Spencer foreclosure action was again pending in the Wood County circuit court, Attorney Nora filed a second motion to disqualify Judge Potter, which he again denied. Judge Potter subsequently granted PNC Bank's summary judgment motion, entered a judgment of foreclosure, and dismissed Spencer's counterclaim. The circuit court confirmed the sheriff's sale of the foreclosed property. Attorney Nora filed appeals from both the judgment of foreclosure and from the order confirming the sale. In May 2016 the court of appeals affirmed the judgment of foreclosure and the confirmation order.

¶39 The OLR alleged three counts of professional misconduct arising out of Attorney Nora's actions in representing Ms. Spencer, most of which addressed Attorney Nora's conduct in federal court. In Count 1 the OLR alleged that Attorney Nora had violated SCR 20:3.1(a) by taking two actions: (1) removing the foreclosure action to federal court without a colorable basis for federal jurisdiction, and (2) filing a frivolous motion to reconsider Judge Crabb's remand order.⁷ The referee concluded that this count should be dismissed because Attorney Nora was deprived of due process when the OLR's complaints failed to give her adequate notice of the misconduct with which she was charged by failing to specify the subsection of SCR 20:3.1(a) that she had violated.⁸

¶40 With respect to Count 2, the referee concluded that the OLR had proven that Attorney Nora had violated SCR 20:3.2⁹ by filing a frivolous appeal on behalf of her client and herself when she was not a party to the litigation and by engaging in an ongoing pattern of conduct to harass other parties and judicial officers and to delay the proceedings.

⁷ The operative language of Count 1 is set forth in paragraph 10 above.

⁸ The referee acknowledged that if this court concluded that there was no due process violation, the OLR had proven by clear, satisfactory and convincing evidence that the conduct described in Count 1 had violated all three subsections of SCR 20:3.1(a). Indeed, the referee said that the evidence of violations of all three subsections was "overwhelming."

⁹ SCR 20:3.2 provides that "[a] lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client."

¶41 The referee also determined that the OLR had proven a violation of the Attorney's Oath in SCR 40.15, which is enforceable via SCR 20:8.4(g).¹⁰

¶42 The referee found that Attorney Nora had used accusations of misconduct against others as merely a standard part of the defense of a foreclosure action, specifically to delay the action so that the client could remain in the home for as long as possible. He noted that in its sanction decision, the Seventh Circuit had found that Attorney Nora had made arguments with no reasonable expectation of success and merely for the purposes of delay, harassment, and "sheer obstinacy." The referee similarly concluded that in the Spencer representation, "[i]t is clear from the very beginning of her entrance into that case her goal was to delay a judgment of foreclosure as long as possible." The referee found that Attorney Nora knew that her attacks against Judge Potter and court personnel would "buy her more time" because the court would have to resolve her allegations of misconduct before it could return to the merits of the case.

FINDINGS OF FACT AND CONCLUSIONS OF LAW CONCERNING COUNTS 4-5

¶43 Counts 4-5 relate to Attorney Nora's representation of the Rinaldis. They had been the defendants in a foreclosure action brought by HSBC Bank (HSBC) in the Kenosha County circuit court (Case No. 2009CV353 or the foreclosure action). Attorney

¹⁰ SCR 20:8.4(g) provides that "[i]t is professional misconduct to: . . . (g) violate the attorney's oath;"

Nora was not involved in that foreclosure action. HSBC was able to obtain a judgment of foreclosure and a dismissal of the Rinaldis' counterclaims. Ultimately, however, HSBC agreed to a vacation of the judgment and dismissal of the case when the Rinaldis entered into a loan modification agreement.

¶44 In June 2011, after the dismissal of the foreclosure action, the Rinaldis filed a civil action against, inter alia, Wells Fargo Bank, N.A., and the Gray Firm. (Kenosha County Case No. 2011CV1477) The defendants filed motions to dismiss in response to the complaint. Attorney Nora appeared in Case No. 2011CV1477 at the end of August 2011. Approximately one week after filing her notice of appearance, Attorney Nora filed a motion to dismiss Case No. 2011CV1477 without prejudice.

¶45 The circuit court, however, did not have a chance to rule on the pending motion to dismiss because on October 14, 2011, Attorney Nora filed a bankruptcy petition on behalf of the Rinaldis in the United States Bankruptcy Court for the Eastern District of Wisconsin. HSBC filed a notice of claim regarding the note and mortgage (and presumably the loan modification agreement) signed by the Rinaldis. Attorney Nora filed an objection to the bank's proof of claim and then filed an adversary action against, inter alia, HSBC, Wells Fargo, the Gray Firm (and certain of its lawyers), and the Litchfield Cavo law firm (and one of its lawyers who had appeared for Wells Fargo in Case No. 2011CV1477). In the objection, Attorney Nora alleged that the note lacked consideration, that two assignments of the mortgage were null and void, that a third assignment of

the mortgage was a forgery, and that HSBC was not the owner or holder of the note. In the adversary action, Attorney Nora alleged claims of common law fraud, abuse of legal process, violations of the federal Fair Debt Collection Practices Act, violations of the federal Racketeering and Corrupt Practices Act, breach of contract, and tortious interference with prospective economic opportunity.

¶46 United States Bankruptcy Judge Susan Kelley rejected the Rinaldis' objection to HSBC's proof of claim, including Attorney Nora's claim that the bank had produced a forged endorsement of the note and mortgage. Judge Kelley also recommended that the district court dismiss the claims alleged in the adversary action. Judge Kelley characterized some of the claims asserted by Attorney Nora in both the objection and the adversary proceeding as "frivolous" and "preposterous."

¶47 Attorney Nora filed (1) an appeal from Judge Kelley's decision rejecting the objection to HSBC's proof of claim and (2) an objection to Judge Kelley's recommendation to the district court to dismiss the adversary proceeding. The appeal and objection were consolidated before United States District Court Judge J.P. Stadtmueller.

¶48 Judge Stadtmueller issued a decision on October 31, 2013, in which he affirmed Judge Kelley's dismissal of the objection to HSBC's proof of claim and adopted Judge Kelley's proposed findings and conclusions regarding the dismissal of the adversary proceeding. Judge Stadtmueller further held that Attorney Nora had failed to comply with the Federal Rules of

Bankruptcy Procedure regarding appeals. He stated that the Rinaldis had "failed to provide a cogent statement of the issues on appeal" and had provided briefs "that are largely unintelligible" and that were "an unfocused, stream-of-consciousness-style recitation of general grievances the debtors have asserted in various forms since the origination of this litigation in state court." He further held that any issues regarding the assignment of the mortgage did not affect HSBC's rights as holder of the Rinaldis' note. He described the claims in the adversary proceeding as "generally meritless" and expressed concern that the Rinaldis were simply attempting to stay the foreclosure of their home, meaning that their claim of abuse of process would apply more to them than to the lender and the other defendants. Finally, Judge Stadtmueller warned the Rinaldis (and Attorney Nora) "that they will find themselves in very deep trouble if additional meritless filings find their way to this Court (seeing as this Court has already had the responsibility of dealing with their all-but-frivolous filings in Case No. 12-CV-1065) and may very well result in significant sanctions."

¶49 Attorney Nora filed a motion to amend the findings of fact, conclusions of law, and judgment entered by Judge Stadtmueller. Her motion alleged the same kind of arguments that she had previously made in her filings to both the bankruptcy court and the district court, including that the mortgage had been fraudulently assigned by Wells Fargo. On December 13, 2013, Judge Stadtmueller issued an order denying

the motion, which stated that the Rinaldis had failed to identify any manifest error of law or fact that would entitle them to relief under Fed. R. Civ. Proc. 59(e) and which explicitly warned them (and Attorney Nora) that "any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney."

¶50 On December 23, 2013, Attorney Nora filed a notice of appeal from the orders issued by Judge Stadtmueller. On February 11, 2014, she filed a motion to withdraw as the Rinaldis' counsel in all three of the applicable federal courts (bankruptcy court, district court, and court of appeals). Judge Kelley heard the motion to withdraw on March 4, 2014, along with a motion by the U.S. Trustee to dismiss the bankruptcy proceeding due to the Rinaldis' failure to make payments. Judge Kelley dismissed the bankruptcy proceeding, but retained jurisdiction over the sanction motion filed by the defendants in the adversary proceeding. Judge Kelley also denied Attorney Nora's motion for reconsideration of her opinion that dismissal of the bankruptcy proceeding would moot the appeal Attorney Nora had filed on behalf of the Rinaldis. In that motion for reconsideration, Attorney Nora essentially sought to dismiss the adversary proceeding.

¶51 On April 2, 2014, Attorney Nora filed a motion to intervene personally in the Rinaldi case before Judge Stadtmueller. On that same date, Attorney Nora filed a joint motion on behalf of herself and the Rinaldis for relief under Fed. R. Civ. Proc. 60(b) from Judge Stadtmueller's prior orders.

The motion to intervene and the motion for relief under Rule 60(b) repeated the same arguments Attorney Nora had been making in her prior filings on behalf of the Rinaldis. The intervention motion also asserted that Attorney Nora had a right to intervene personally to defend against the sanction motion filed by the defendants in the adversary proceeding.

¶52 On April 9, 2014, Judge Stadtmueller issued an order granting Attorney Nora's motion to withdraw and denying the motions to intervene and for relief under Rule 60(b). Judge Stadtmueller also sanctioned Attorney Nora for filing the latter two motions:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that "[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney." (Docket #37 at 3 (emphasis in original)). Despite that extremely clear warning, Ms. Nora filed the frivolous motions in question. Therefore, the Court will enter a sanctions award against her, using its inherent authority to do so under Chambers v. Nasco, Inc., 501 U.S. 32 (1991). The Court will direct that Ms. Nora pay to the Clerk of the Court \$1,000.00 for deposit into the Eastern District of Wisconsin Pro Bono fund. And let the Court be clear: any further frivolous filings will result in even higher sanctions against Ms. Nora.

¶53 The Seventh Circuit affirmed Judge Stadtmueller's orders. It stated that to the extent the adversary claims were not moot, it affirmed the orders dismissing the adversary proceeding for the reasons stated by the district court. It also relied on an exception to the mootness doctrine that

mootness should not be allowed where the losing party causes an appeal to become moot in order to avoid the preclusive effect of an unfavorable ruling. It characterized Attorney Nora's attempt to dismiss as a "type of gamesmanship" intended to deprive the sound decisions of the bankruptcy court and the district court of preclusive effect. Finally, the Seventh Circuit affirmed the sanction award against Attorney Nora, stating that her obligations to her clients did not excuse her disregard of the district court's clear and repeated warnings against continued submission of frivolous and needlessly argumentative filings.

¶54 Like Count 1, Count 4 alleged that certain actions taken by Attorney Nora (specifically the filing of frivolous motions to intervene personally and for relief from prior court orders under Fed. R. Civ. Proc. 60(b)(2)) in the Rinaldi matter had violated SCR 20:3.1(a). As with Count 1, the referee recommended that this court dismiss Count 4 on the ground that the lack of specification of the particular subsection of SCR 20:3.1(a) in the second amended complaint violated Attorney Nora's due process rights.

¶55 With respect to Count 5, the referee concluded that the OLR had sufficiently proven that Attorney Nora had violated SCR 20:3.2 by filing a frivolous motion to intervene and a frivolous motion for relief under Rule 60(b) in the district court, after that court had warned her that further frivolous submissions would result in an award of sanctions.

REFeree'S RECOMMENDATION REGARDING DISCIPLINE

¶56 The OLR sought a one-year suspension of Attorney Nora's license to practice law in Wisconsin, comparing her misconduct to the misconduct found to have been committed by Attorney Joseph Sommers. See In re Disciplinary Proceedings Against Sommers, 2012 WI 33, 339 Wis. 2d 580, 811 N.W.2d 387 (Sommers I); In re Disciplinary Proceedings Against Sommers, 2014 WI 103, 358 Wis. 2d 248, 851 N.W.2d 458 (Sommers II). The referee found this comparison to be unhelpful because "[Attorney] Nora's misconduct in this case is on a level all of its own." Unlike in the Sommers cases, Attorney Nora's misconduct was not limited to one particular case, court, or judge. The referee said that "[i]t is clear that [Attorney] Nora generally practices law in a highly offensive and disrespectful fashion" and that she intentionally acts in an offensive, disrespectful, and difficult manner in order to delay the foreclosure proceedings against her clients, which she views as doing her job for them.

¶57 The referee stated that Attorney Nora had shown no remorse for her conduct. To the contrary, she believes that her tactics are appropriate in defending against foreclosures at all costs. The referee twice stated that Attorney Nora sees herself as a hero for actions in defending against foreclosures, which the courts fail to appreciate. She does not understand the difference between a vigorous and zealous defense and professional misconduct. As an example, the referee pointed to the "many false accusations" that Attorney Nora made against Judge Potter, which she had failed to substantiate. The referee

further stated that, based on his observation of Attorney Nora during this disciplinary proceeding, he believed that, if given the chance, Attorney Nora would continue to engage in the type of misconduct at issue in this proceeding. He noted that the misconduct in the prior disciplinary cases against her was similar to the misconduct found in this proceeding. In sum, the referee concluded that Attorney Nora "represents a serious and ongoing threat to the public, the judges before which she appears, opposing counsel, and the legal profession." He therefore recommended that the court suspend Attorney Nora's license for a period of two years. He also recommended that the reinstatement of her license be conditioned "on good faith efforts by her to pay the tremendous costs incurred by the OLR and the lawyers of Wisconsin in this disciplinary proceeding."

ATTORNEY NORA'S APPEAL

¶58 When we review a referee's report, we will affirm a referee's findings of fact unless they are found to be clearly erroneous, but we review the referee's conclusions of law on a de novo basis. In re Disciplinary Proceedings Against Inglmio, 2007 WI 126, ¶5, 305 Wis. 2d 71, 740 N.W.2d 125. We determine the appropriate level of discipline to impose given the particular facts of each case, independent of the referee's recommendation, but benefiting from it. In re Disciplinary Proceedings Against Widule, 2003 WI 34, ¶44, 261 Wis. 2d 45, 660 N.W.2d 686.

¶59 Attorney Nora's opening brief on her appeal lists 18 separate issues (some with multiple subparts) that she would

like this court to address.¹¹ A number of those issues or sub-issues, however, are not sufficiently developed in Attorney Nora's brief, and we will not address them in this decision. Parsons v. Associated Banc-Corp., 2017 WI 37, ¶39 n.8, 374 Wis. 2d 513, 893 N.W.2d 212.

¶60 The first group of arguments on appeal by Attorney Nora allege due process violations. She objects initially to the fact that the OLR included 174 proposed findings of fact with citations to the record in its post-hearing brief, arguing that these statements were "new factual allegations" and that the inclusion of them deprived her of due process before the referee.

¶61 Attorney Nora contends that these "new factual allegations" were improper because the OLR did not obtain a

¹¹ With each of her three appellate briefs, Attorney Nora filed a set of requests asking this court to take judicial notice of certain documents under Wis. Stat. § 901.01(4) and 901.02(2)(b). The documents at issue, copies of which Attorney Nora appended to her requests, appear to be, for the most part, filings from various underlying court proceedings. The OLR did not object to this court taking judicial notice of the existence and contents of the documents. Accordingly, we take judicial notice of the existence and of the contents of the requested documents. We do not take judicial notice of the truth of any statements included in those documents. In addition, we do not take judicial notice of the Rinaldis' Chapter 13 Plan in their bankruptcy proceeding because no such document was found as Exhibit F to Attorney Nora's April 2, 2019 second set of requests for judicial notice in support of her reply brief. We also do not take judicial notice of the List of Nonpriority Unsecured Claims from Attorney Nora's personal bankruptcy proceeding that was attached as Exhibit G to her April 2, 2019 second set of requests for judicial notice. That document is not relevant to Attorney Nora's reply brief.

"cause-to-proceed" determination as to most of those facts from a panel of the preliminary review committee (the PRC) under SCR 22.11(2) before the evidentiary hearing in this proceeding. Attorney Nora apparently relies on the language in that rule which states that "[t]he complaint shall set forth only those facts and misconduct allegations for which the preliminary review panel determined there was cause to proceed" Attorney Nora reads this clause literally to mean that each allegation of fact in a disciplinary complaint must be specifically approved by the PRC. She then attempts to extend the language to require PRC approval of proposed findings of fact in a post-hearing submission. She does not offer any case law support for such an interpretation, nor does she analyze how this language from SCR 22.11(2) fits within the structure of the disciplinary process described in SCR ch. 22.

¶62 Attorney Nora's argument is misplaced. The procedural provisions in SCR ch. 22 regarding the presentation of a matter to a panel of the PRC do not require or even contemplate that the PRC will make any factual determinations about the information submitted by the OLR's director. The director is required to submit to the PRC panel the OLR's "investigative reports, including all relevant exculpatory and inculpatory information obtained and appendices and exhibits, if any." SCR 22.06(1). The PRC panel does not make credibility determinations or decide what the specific facts regarding the matter are. What it does do is determine, given the inculpatory and exculpatory information presented to it, whether there is

sufficient plausible evidence for the OLR to proceed with a formal disciplinary claim against the respondent attorney. The PRC panel does not review a proposed complaint and approve or disapprove specific factual allegations in a complaint.

¶63 Indeed, a finding of cause to proceed by a PRC panel does not automatically lead to the filing of a disciplinary complaint. A finding of cause to proceed merely authorizes the OLR director to "decide on the appropriate discipline or other disposition to seek in the matter." SCR 22.08(2). In some cases the director will determine that the appropriate next step is to file a formal complaint in this court asking it to impose discipline against the respondent attorney. SCR 22.08(2)(c). In other words, the formal complaint can be drafted and filed after the PRC panel has completed its work. In other cases, however, the director is authorized to obtain the respondent attorney's agreement to a consensual reprimand or to divert the matter to an alternative to discipline program. SCR 22.08(2)(a)-(b).

¶64 That the OLR is not bound to obtain approval of every factual allegation in a complaint or every proposed finding of fact in a post-hearing brief is demonstrated by the fact that SCR 22.11(5) authorizes the OLR to amend a complaint "as provided in the rules of civil procedure." If Attorney Nora's view were correct, that subsection would also need to state that a complaint may be amended only if a PRC panel first approves the amended allegations. The rule does not, however, contain any such requirement.

¶65 In any event, in this case a PRC panel made a cause-to-proceed determination as to the five misconduct claims that appear in all three versions of the OLR's complaint. The amendments in both the first amended complaint and the second amended complaint did not add entirely new instances of conduct or new misconduct claims; they simply corrected some mistakes in the factual allegations. Such amendments are clearly permitted under SCR 22.11(5) and do not require a second (or third) approval by a PRC panel under SCR 22.11(2). Similarly, once a PRC panel has found cause to proceed on claims that are subsequently included in a formal complaint, there is no requirement in SCR 22.11 that the OLR obtain further approval of any particular summary of facts from the evidence introduced in the case or in any particular set of proposed findings of fact. To the extent that the OLR was able to flesh out the factual allegations of its second amended complaint by presenting evidence at the evidentiary hearing, that is entirely consistent with due process. Indeed, that is the normal course of proceedings in all civil and criminal cases. Accordingly, the OLR's inclusion of proposed findings of fact in its post-hearing brief did not violate SCR 22.11(2).

¶66 Attorney Nora also argues that the inclusion of the 174 allegedly "new" factual allegations in the OLR's post-hearing brief violated her due process rights under In re Ruffalo, 390 U.S. 544, 551 (1968). In that matter, however, the U.S. Supreme Court held that it was a violation of due process for the Ohio disciplinary authorities (the local bar

association) to amend their disciplinary complaint during the disciplinary hearing and after the respondent attorney had testified in order to allege an entirely new claim of misconduct.¹² Id. at 550-51. That holding has no bearing on this proceeding because the OLR never attempted to allege an entirely new claim of misconduct in its amended complaints or in its post-hearing brief. The five counts in the OLR's original complaint identified what conduct by Attorney Nora violated which rules of professional conduct. Those five claims remained the same in each of the OLR's amended complaints. The referee's conclusions of law likewise determine that the same conduct by Attorney Nora violated the same rules that the OLR identified in its complaints. There is no due process violation under Ruffalo in this proceeding.

¶67 Similarly, Attorney Nora alleges that the 174 "new factual allegations" in the OLR's post-hearing brief constituted a due process violation under this court's decision in State v. Hersh, 73 Wis. 2d 390, 243 N.W.2d 178 (1976). In that case, this court found no due process violation where, under a previous attorney disciplinary regime, the Board of State Bar Commissioners was allowed to amend a complaint against a respondent attorney to conform the complaint to the evidence upon approval by a sufficient number of members of the board and

¹² The appeal in Ruffalo actually arose out of a decision by the Sixth Circuit to disbar Attorney Ruffalo from practicing in that court, but the Sixth Circuit essentially relied on the Ohio state disciplinary proceeding in reaching its decision. In re Ruffalo, 390 U.S. 544, 545, 547 (1968).

an adjournment of the disciplinary hearing occurred. Attorney Nora points to a statement in that decision that a respondent attorney's due process rights in a disciplinary proceeding "encompasses only [the attorney's] right to prior notice of charges, [the attorney's] right to prepare to defend these charges, and [the attorney's] right to a full hearing on these charges." Id. at 398. We find no violation of these rights arising out of the OLR's submission of proposed findings of fact in a post-hearing brief. Attorney Nora fails to demonstrate that those proposed findings of fact materially changed the nature of the allegations against her or the ethical rules which she was alleged to have violated. The five counts in each of the OLR's three complaints, which remained consistent, adequately advised Attorney Nora which of her actions had violated which rules of professional conduct. She had sufficient notice of the charges to be able to prepare to defend against those claims. She was accorded a four-day hearing at which to question the OLR's witnesses and to present her own testimony and exhibits. Her due process rights were duly protected.

¶68 Attorney Nora briefly alleges that her due process right to prepare and present a defense was also violated by various rulings by the referee. These allegations are not sufficiently developed to warrant specific responses. Even if we were to address them on the merits, we see no due process violations as a result of the referee's orders. Attorney Nora had a sufficient opportunity to conduct discovery, to name

witnesses, and to prepare and present a defense. Her failure to avail herself of some of those opportunities does not mean that her due process rights were violated.

¶69 The second group of arguments in Attorney Nora's appeal is styled as a broad challenge to the referee's factual findings. Her arguments, however, challenge the referee's legal conclusions that she violated SCR 20:3.2 in Counts 2 and 5 as much as she challenges any particular factual findings. She argues that under SCR 20:3.2, the referee erred in concluding that she had improperly delayed both the Spencer matter and the Rinaldi matter. She contends that a lawyer can violate that rule only if the lawyer's actions had no substantial purpose other than to delay. Since she alleges that she acted in good faith in taking the actions she took, there could be no conclusion of improper delay. Moreover, she argues that her conduct did not actually result in delay of either the Spencer matter or the Rinaldi matter.

¶70 Attorney Nora points to an American Bar Association comment to Model Rule 3.2 that the question under this rule is whether a competent lawyer acting in good faith would regard the course of action at issue as having some substantial purpose other than delay. What Attorney Nora misses is that this comment demonstrates that the pertinent question under the rule is one of the lawyer's purpose or intent in pursuing the action(s) at issue. Determining a person's intent requires a referee to make an inference from the lawyer's actions and statements under the circumstances. See Welytok v. Ziolkowski,

2008 WI App 67, ¶26, 312 Wis. 2d 435, 752 N.W.2d 359 (quoting Pfeifer v. World Serv. Life Ins. Co., 121 Wis. 2d 567, 569, 360 N.W.2d 65 (Ct. App. 1984)). Here, the referee drew factual inferences from the facts presented that Attorney Nora's purpose in taking a number of specified actions was to delay the Spencer matter and the Rinaldi matter. To the extent that she challenges these factual inferences on appeal, Attorney Nora must show that the referee's inferences were clearly erroneous (i.e., that each inference was against the great weight and clear preponderance of the evidence). Phelps v. Physicians Ins. Co. of Wisconsin, 2009 WI 74, ¶39, 319 Wis. 2d 1, 768 N.W.2d 615.

¶71 Attorney Nora does not meet that high burden. There was ample evidence with respect to both the Spencer matter and the Rinaldi matter to support the referee's determination that Attorney Nora's purpose was to place whatever road blocks she could construct in the path of concluding the various pieces of litigation.

¶72 In the Spencer matter, Attorney Nora made a host of accusations against Judge Potter, claiming that he and his court staff had engaged in multiple ex parte communications with opposing counsel, that he had conducted "secret proceedings," and that he had been "collaborating" with opposing counsel and had been "complicit in the manipulation of the proceedings and of the record." United States District Court Judge Crabb determined that Attorney Nora's subsequent attempt to remove the case to federal court was not objectively reasonable. Instead

of accepting the district court's ruling, Attorney Nora twice moved for reconsideration of Judge Crabb's remand order, resulting in Judge Crabb finding that her reconsideration requests were without basis and awarding costs and fees to the opposing party. Attorney Nora then prolonged the federal proceedings by filing an appeal that the Seventh Circuit found to be frivolous, ultimately resulting in an award of sanctions against her.

¶73 In the Rinaldi matter, Attorney Nora attempted to drag out the matter by raising objections and arguments that the federal bankruptcy judge characterized as frivolous. She then attempted to intervene personally and to move for relief under Fed. R. Civ. Proc. 60(b). The federal district court again determined that Attorney Nora's motions had been frivolous and imposed sanctions. On appeal the Seventh Circuit characterized Attorney Nora's actions as "gamesmanship" that it would not permit, and it affirmed the imposition of sanctions due to Attorney Nora's frivolous filings. The referee's inferences of a purpose of delay by Attorney Nora in both matters were not clearly erroneous.

¶74 Although it too falls within the portion of her argument regarding a lack of evidence to support the referee's factual findings, Attorney Nora's argument regarding Count 3 (violation of the attorney's oath) is also more legal in nature than an allegation that the referee's factual findings were clearly erroneous. She contends that her actions on behalf of Ms. Spencer arose from her constitutionally protected obligation

as a lawyer to seek redress from the courts on behalf of her client. As this court already explained in Nora II, however, a lawyer's fight for a client's cause, however noble the lawyer might believe it to be, must be conducted within the ethical rules. Nora, 380 Wis. 2d 311, ¶41. Attorney Nora has not demonstrated any error in the referee's factual findings about Attorney Nora's specific actions in the Spencer matter or in the referee's determination that her actions constituted an ongoing pattern of conduct to harass other parties and judicial officers and to delay the proceedings. The Seventh Circuit's description of her conduct, quoted in paragraph 37 above, supports the referee's findings in this regard. The referee's factual findings and his inference that Attorney Nora's actions were intended to harass and to delay are not clearly erroneous. A determination that Attorney Nora exceeded the bounds of ethical advocacy by her conduct does not violate her or her clients' constitutional rights to petition the judicial branch of government for redress.

¶75 Attorney Nora includes a number of other general allegations that the referee erred in his evidentiary rulings, misapplied burdens of proof, and made unsupported findings in the discussion section of his report. These allegations are insufficiently developed, and we need not address them here.

¶76 Having concluded that Attorney Nora's appellate arguments are without merit, we accept the referee's factual findings and agree with his legal conclusions that the OLR

proved the ethical violations alleged in Counts 2, 3, and 5 of its second amended complaint.

OLR'S CROSS-APPEAL

¶77 We now turn to the OLR's cross-appeal of the dismissal of Counts 1 and 4 on the ground that the versions of the OLR's complaint failed to provide adequate notice as to which subsection of SCR 20:3.1(a) her conduct had violated. First, we start from the observation that from its original complaint through to its second amended complaint, the OLR identified the specific actions by Attorney Nora that it alleged violated SCR 20:3.1(a). In the Spencer matter, the alleged misconduct was removing the foreclosure action against Ms. Spencer to the federal court with no colorable basis for federal jurisdiction and then filing frivolous motions for reconsideration of the federal district court's remand order. In the Rinaldi matter, the alleged misconduct was filing in the federal district court a frivolous motion to intervene personally and a frivolous motion for relief from prior orders under Fed. R. Civ. Proc. 60(b).

¶78 Attorney Nora therefore knew the basis for those counts from the very beginning of the proceeding. She litigated against those counts before the referee for more than two years, through motions to dismiss, through pretrial motions, through a four-day evidentiary hearing, and through the filing of a post-hearing brief. While in one early filing she did note that Count 4 of the complaint (specifically, paragraph 90) did not identify the subsections of SCR 20:3.1(a), she never alleged

that the failure to identify the subsections of SCR 20:3.1(a) constituted a violation of her due process right to notice of the misconduct charges against her. Through the filing of her post-hearing brief, she never alleged that she was unable to defend against Count 1 and 4 because the OLR's complaints had not specified which subsection of SCR 20:3.1(a) her actions had violated. Had the referee not raised the issue sua sponte after the parties had concluded their post-hearing briefs, the litigation of the case before the referee would have concluded with no such claim having been made.

¶79 Under these facts, we conclude that Attorney Nora forfeited any argument that Counts 1 and 4 of the OLR's complaints violated her due process rights. The issue raised by the referee is a question of notice in pleading. A respondent party cannot ignore an alleged defect in pleading all the way through the final evidentiary hearing (or trial) of a case and through post-hearing briefing, and then allege that the complainant's claim must be dismissed because it failed to provide adequate notice of the claim against the respondent. Permitting respondents to obtain dismissal of claims under those circumstances would endorse "gotcha" tactics and would undermine the orderly conduct of a disciplinary proceeding or any other civil action. The prejudice of such a ruling is evident here. Because the alleged error by the OLR was one of pleading, it could have been easily remedied through the filing of an amended complaint if Attorney Nora had alleged a due process violation at any point during the actual litigation of the case. By

litigating the case through the evidentiary hearing, she prevented the OLR from having an opportunity to remedy any alleged deficiency in its complaint. Moreover, the fact that she actually defended against Counts 1 and 4 at the evidentiary hearing undercuts an assertion that she lacked sufficient notice to prepare a defense on those counts.

¶80 In addition, the fact that the referee ultimately raised the issue does not affect this analysis. Attorney Nora's failure to raise the issue through the evidentiary hearing and post-hearing briefing still meant that her conduct in litigating the case through the evidentiary hearing prevented the OLR from amending those counts and obtaining a decision on their merits, whether or not the referee subsequently raised the issue. The referee's raising of the issue after the evidentiary hearing was complete still prevented the OLR from correcting an alleged pleading deficiency. Accordingly, we conclude that under these circumstances Counts 1 and 4 should not be dismissed based on a claimed due process violation that was clearly forfeited by Attorney Nora.

¶81 The referee concluded that, if this court rejected his recommended dismissal of Counts 1 and 4 on due process grounds, the OLR did prove in each of those two counts that Attorney Nora had violated SCR 20:3.1(a) by clear, satisfactory and convincing evidence. We agree with those conclusions.

APPROPRIATE LEVEL OF DISCIPLINE

¶82 Having determined that Attorney Nora engaged in professional misconduct as alleged in all five counts of the

amended complaint, we turn to the issue of the appropriate level of discipline. In assessing what is the proper level of discipline to impose, we consider various factors, including: "(1) the seriousness, nature and extent of the misconduct; (2) the level of discipline needed to protect the public, the courts, and the legal system from repetition of the attorney's misconduct; (3) the need to impress upon the attorney the seriousness of the misconduct; and (4) the need to deter other attorneys from committing similar misconduct." In re Disciplinary Proceedings Against Carroll, 2001 WI 130, ¶40, 248 Wis. 2d 662, 636 N.W.2d 718.

¶83 It cannot reasonably be disputed that Attorney Nora's misconduct is serious. Although she criticizes as "inflammatory" the referee's description of the tactics she used, we view them as fair comments on Attorney Nora's actions. Quite simply, she has repeatedly abused the legal system to pursue her agenda of delaying foreclosure actions by any means possible.

¶84 This is not an isolated incident of a lawyer allowing the lawyer's zeal in the heat of battle to overcome the lawyer's better judgment. This is now the third time that Attorney Nora is being disciplined for similar conduct. In just Nora II and this case, she has been found to have filed frivolous claims or taken frivolous positions in five separate actions. Clearly, there is a lengthy pattern of similar misconduct. She has been sanctioned multiple times in multiple courts for her frivolous filings.

¶85 Her misconduct does pose a real threat to the administration of justice. Not only has she improperly used the tools of the legal system to delay the completion of civil actions, she has repeatedly attacked the other participants in those actions (judges, lawyers, and litigants) with claims of unethical or even criminal conduct. She alleged that Judge Potter had abandoned his role as a neutral magistrate to manipulate the record and to collude with opposing counsel to reach a corrupt result. She accused Judge Crabb of engaging in a personal campaign of libel against her. She accused the judges of the Seventh Circuit of being biased against the rights of homeowners. Not only was she unwilling to accept the rulings of these judicial officers and therefore repeatedly challenged their rulings after the fact, she labeled those judges who did not accede to her tactics as being biased and unethical. Lawyers do not have to agree with a judge's rulings, but the legal system cannot function properly and maintain the necessary respect in the eyes of the public if lawyers baselessly attack the integrity of the individuals who preside in our courts.

¶86 The referee found that Attorney Nora had not expressed any real remorse for her conduct throughout the proceedings before him. Rather, her conduct in litigating this case demonstrated that she continued to believe her win-at-all-costs approach in foreclosure cases was justified. He found that if she again held a valid license to practice law, she would not hesitate to use the same improper tactics. In part, he reached this conclusion because he believed that there was little chance

that Attorney Nora will ever understand why her actions were wrong and what damage her misconduct had caused. Further, his belief was supported by the fact that during this disciplinary proceeding, Attorney Nora had reached into the same playbook, accusing the investigators and attorneys acting on behalf of the OLR of being biased and having engaged in serious professional misconduct, even in criminal activities.

¶87 During oral argument before this court, Attorney Nora did acknowledge, to a limited degree, that she had crossed an ethical line. She admitted that she had been overzealous at times and had shown an offensive personality in some of her filings, but she indicated that her fault had been in the incorrect manner in which she had articulated her positions. Attorney Nora did not show that she accepted and admitted that the actual positions and actions she took were improper, even though multiple courts had found multiple filings submitted by her to be frivolous and had imposed sanctions on her.

¶88 Clearly, given her arguments to this court, Attorney Nora retains the same zeal for her cause of fighting against residential property lenders and mortgage holders. While we recognize that she has now made some show of acknowledging a limited responsibility for her conduct, we share the referee's concern that Attorney Nora has not grasped or accepted the extent of her misconduct and that, at this point, she would be highly likely to repeat that misconduct if she held a valid license to practice law. We therefore conclude that a substantial period of suspension is necessary to impress upon

her the seriousness of her misconduct and to protect the public, the courts, and the legal system from a repetition of that misconduct.

¶89 The referee commented that Attorney Nora's professional misconduct "is at a level all of its own, not previously seen in any Wisconsin disciplinary cases." That observation seems, in our view, to be somewhat of an overstatement. For example, we revoked the license of Attorney Alan Eisenberg when he not only commenced and continued a frivolous claim to harass an opposing party, but repeatedly made misrepresentations to damage the reputation of an opposing party and to gain leverage in a pending divorce action. In re Disciplinary Proceedings Against Eisenberg, 2010 WI 11, 322 Wis. 2d 518, 778 N.W.2d 645. While Attorney Nora's misconduct does share some similar traits with Attorney Eisenberg's misconduct, his prior disciplinary history and the culpability of his actions exceed those of Attorney Nora. We therefore do not believe that a revocation of her license is necessary or appropriate.

¶90 On the other hand, we agree with the referee that the OLR's initial analogy to the suspensions imposed on Attorney John Widule and Attorney Joseph Sommers is inadequate. The Sommers I case, in which we imposed a 30-day suspension involved unusual mitigating factors and is particularly inapt, both factually and legally. The Widule case,¹³ in which we imposed a

¹³ In re Disciplinary Proceedings Against Widule, 2003 WI 34, 261 Wis. 2d 45, 660 N.W.2d 686.

six-month suspension did involve similar conduct in commencing and continuing a frivolous action, but that matter is also factually distinguishable. Attorney Widule's misconduct was limited to one client representation and he had no prior record of receiving public discipline. This is now the third disciplinary proceeding against Attorney Nora, and it involves the fourth and fifth actions in which Attorney Nora took frivolous positions. Attorney Nora's professional misconduct warrants a significantly higher level of discipline than the six-month suspension we imposed on Attorney Widule.

¶91 In addition, this court has generally followed a practice of imposing progressive discipline. In re Disciplinary Proceedings Against Netzer, 2014 WI 7, ¶49, 352 Wis. 2d 310, 841 N.W.2d 820 ("This court has long adhered to the concept of progressive discipline in attorney regulatory cases."); In re Disciplinary Proceedings Against Nussberger, 2006 WI 111, ¶27, 296 Wis. 2d 47, 719 N.W.2d 501 (" . . . we have frequently followed the concept of progressive discipline, especially in cases involving a pattern of similar misconduct."). The misconduct in this case is similar in nature to the misconduct found in Nora II, where we imposed a one-year suspension. A longer suspension is appropriate here.

¶92 Having considered all of the factors discussed above, we conclude that a two-year suspension of Attorney Nora's license to practice law in Wisconsin is necessary to impress upon her the seriousness of her misconduct and to protect the

courts and the legal system from a repetition of that misconduct.

¶93 In his report the referee commented that he recommended a two-year suspension, "consecutive to any current suspensions." His report, however, was issued while Attorney Nora was serving the one-year suspension imposed in Nora II. If this case had concluded while that one-year suspension remained in effect, it would have been logical to begin the current suspension following the completion of the prior suspension.

¶94 Generally, disciplinary suspensions imposed by this court are prospective—i.e., they commence at the time that the suspension is imposed or within a few weeks thereafter. Commencing the two-year suspension imposed in this proceeding as of April 30, 2019, when the one-year suspension from Nora II expired, would make the current suspension retroactive. "Generally, a retroactive suspension is disfavored in the absence of some compelling circumstance." In re Disciplinary Proceedings Against Woods, 2011 WI 46, ¶2, 334 Wis. 2d 324, 800 N.W.2d 875 (citation omitted). We find no compelling circumstance here that would warrant beginning the current two-year suspension more than one year ago.

¶95 We do, however, recognize that the COVID-19 pandemic and the attendant matters that have consumed the court over the last several months have impacted the timing of this decision. We therefore conclude that it is appropriate to make the two-year suspension effective as of April 1, 2020.

¶196 The referee also recommended that this court condition the reinstatement of Attorney Nora's license on "good faith efforts by her to pay the tremendous costs incurred by the OLR and the lawyers of Wisconsin in this disciplinary proceeding." We do not impose this condition. First, such a condition would ordinarily be unnecessary because a lawyer's reinstatement petition from a suspension of six months or more must show that the lawyer has fully complied with the terms of the suspension order, which would ordinarily include a requirement that the lawyer pay the costs of the disciplinary proceeding. See SCR 22.29(4)(c). Further, the condition is not necessary in this case because, as discussed below, we are not ordering Attorney Nora to pay the costs of this proceeding pursuant to the OLR's request.

¶197 We do, however, determine that it is necessary and appropriate to impose a different condition on any reinstatement proceeding that Attorney Nora may initiate. A number of courts have imposed monetary sanctions on her individually as a result of her filing frivolous documents. Paying those monetary sanctions is an appropriate way for Attorney Nora to demonstrate that she has accepted responsibility for her actions. Consequently, we require as a condition of reinstatement that any reinstatement petition filed by Attorney Nora (1) identify each monetary sanction amount that has been imposed on her by any court and that is outstanding as of the date of this decision and (2) allege that she has made a good faith effort to pay all such sanction amounts. She must then prove during the

reinstatement proceedings before the referee that she has made a good faith effort to pay all of the sanction amounts identified in her petition. The failure of Attorney Nora to meet these conditions will be sufficient grounds for the dismissal of her reinstatement petition.

¶98 The OLR does not request any restitution award. Attorney Nora's misconduct at issue did not involve her retaining funds that should be delivered to others. Consequently, we do not include restitution in our order.

¶99 Finally, we turn to the issue of costs. Attorney Nora filed an objection to the OLR's statement of costs and to the referee's recommendation regarding costs, based in part on the fact that the OLR did not provide an itemization initially with its statement of costs and the referee submitted his cost recommendation before Attorney Nora filed her objection. After oral argument, we issued an order that directed the OLR to file a supplemental statement of appellate costs with an attached full itemization of costs and that permitted Attorney Nora to file a new, comprehensive objection.

¶100 One of Attorney Nora's objections to a cost award was that she has been pursuing a personal bankruptcy proceeding in the United States Bankruptcy Court for the District of Minnesota (the Minnesota bankruptcy court). On June 15, 2020, the OLR filed a Revised Recommendation Regarding Costs. It noted that the Minnesota bankruptcy court had recently issued a discharge in bankruptcy to Attorney Nora. It requested that the court not

order Attorney Nora to pay the costs of this disciplinary proceeding.

¶101 Under the particular circumstances of this matter and in light of the OLR's request, we will not require Attorney Nora to pay the costs of this disciplinary proceeding.¹⁴

¶102 IT IS ORDERED that the license of Wendy Alison Nora to practice law in Wisconsin is suspended for a period of two years, effective April 1, 2020.

¶103 IT IS FURTHER ORDERED, that as a condition of reinstatement, any petition seeking reinstatement from the license suspension imposed in this proceeding must (1) identify each monetary sanction amount that has been imposed on her individually by any court and that is outstanding as of the date of this decision and (2) allege that she has made a good faith effort to pay all such sanction amounts. In addition, Attorney Nora must prove during the reinstatement proceedings before the referee that she has made a good faith effort to pay all of the sanction amounts identified in her petition.

¶104 IT IS FURTHER ORDERED that no costs shall be imposed upon Wendy Alison Nora in this proceeding.

¶105 IT IS FURTHER ORDERED that the administrative suspension of Wendy Alison Nora's license to practice law in Wisconsin, due to her failure to pay mandatory bar dues and her failure to file a trust account certification, will remain in

¹⁴ The OLR's supplemental statement of costs indicated that the costs of this proceeding were \$94,997.97.

effect until each reason for the administrative suspension has been rectified pursuant to SCR 22.28(1).

¶106 IT IS FURTHER ORDERED that Wendy Alison Nora shall comply with the provisions of SCR 22.26 concerning the duties of a person whose license to practice law in Wisconsin has been suspended.

¶107 IT IS FURTHER ORDERED that compliance with all conditions of this order is required for reinstatement from the suspension imposed herein. See SCR 22.28(3).

APPENDIX B



OFFICE OF THE CLERK
Supreme Court of Wisconsin

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WI 53701-1688

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October 21, 2020

To:

Wendy A. Nora
 Access Legal Services
 310 Fourth Ave. S., Ste. 5010
 Minneapolis, MN 55415

Paul W. Schwarzenbart
 Stafford & Rosenbaum
 P.O. Box 1784
 Madison, WI 53701

William J. Weigel
 Heidi Johnson
 Office of Lawyer Regulation
 110 E. Main St., Ste. 315
 Madison, WI 53703

James J. Winiarski
 3625 W. Oklahoma Ave.
 Milwaukee, WI 53215

You are hereby notified that the Court has entered the following order:

No. 2015AP2442-D

Office of Lawyer Regulation v. Wendy Alison Nora

The court having considered the motion of respondent-appellant-cross-respondent, Attorney Wendy Alison Nora, for reconsideration of this court's July 14, 2020 opinion and order;

IT IS ORDERED that respondent-appellant-cross-respondent's motion for reconsideration is denied.

JILL J. KAROFISKY, J., did not participate.

Sheila T. Reiff
 Clerk of Supreme Court

APPENDIX C

STATE OF WISCONSIN

IN THE SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST, WENDY ALISON NORA,
ATTORNEY AT LAW

CASE CODE 30912

OFFICE OF LAWYER REGULATION

CASE NO. 2015AP002442-D

Complainant;

WENDY ALISON NORA

Respondent.

REFEREE'S REPORT AND RECOMMENDATION

PROCEDURAL HISTORY

The procedural history in this case is long and complicated. OLR first tried to file an amended complaint in what has become known as Nora #1, *Disciplinary Proceedings Against Nora*, Supreme Court Case No. 2013AP653-D. When the referee in that case would not allow another amended complaint, OLR commenced this new disciplinary case, which has become known as Nora #2.

The Complainant, Office of Lawyer Regulation (hereinafter "OLR"), by Assistant Litigation Counsel, Sheryl St. Ores, commenced this matter by filing a complaint and order to answer with the Supreme Court of Wisconsin on November 30, 2015.

I was appointed referee by the Wisconsin Supreme Court on January 7, 2016.

Immediately after my appointment as referee in this case, I was presented with voluminous pleadings, motions, briefs, and exhibits. The filings included, but were not limited to:

1. *Verified Jurisdictional Objection and Notice of Motion and Motion for a Franks Hearing to Dismiss for Lack of Probable Cause; Further or Alternative Motion to Dismiss for Selective and Vindictive Prosecution; and Further or Alternative Motion to Dismiss as a Sanction for Bad Faith Initiation and Continuation of These Proceedings and the Companion Case Identified Herein as Nora #1.*¹

2. *Appendix Part II. Exhibits to Verified Jurisdictional Objection and Notice of Motion and Motion for a Franks Hearing to Dismiss for Lack of Probable Cause; Further or Alternative Motion to Dismiss for Selective and Vindictive Prosecution; and Further or Alternative Motion to Dismiss as a Sanction for Bad Faith Initiation and Continuation of These Proceedings and the Companion Case Identified Herein as Nora#1.*

OLR filed an amended complaint on January 19, 2016. Attorney Nora (hereinafter “Nora”) initially did not file an answer. Instead she filed several jurisdictional motions.

Following a scheduling hearing held on February 17, 2016, I issued a substantial pre-trial scheduling order in this matter on February 18, 2016. The scheduling order directed Nora to file any additional motions and supporting briefs and authorities within twenty (20) days of the scheduling order. The primary purpose of the scheduling order was to get all motions in front of me so that I could resolve all pending motions in a timely fashion.

Nora was told she did not need to re-file any motions already filed and that I would consider them as part of my decision. Nora was also advised that she could file any additional motions, if she wished.

¹Many of the motions, pleadings, and briefs filed by the parties during this disciplinary proceeding have long titles. Italics have been used to identify all titles.

Given Nora's jurisdictional objections, the scheduling order, over the objection of OLR, allowed Nora to forego the filing of an answer to the amended complaint until the jurisdictional motions were resolved. The scheduling order also set a date for a hearing. It also set alternative dates for hearing in the event the first date was not used. The scheduling order provided a discovery deadline.

On March 7, 2016, Nora filed *Supplement to Notice of Motion and Motion for Extension of Time to File Her Motion to Dismiss for Lack of Probable Cause to Initiate These Proceedings; for a Franks Hearing to Dismiss for Lack of Probable Cause; Further or Alternative Motion to Dismiss for Selective and Vindictive Prosecution; and Further or Alternative Motion to Dismiss as a Sanction for Bad Faith Initiation and Continuation of These Proceedings and the Companion Case Previously Identified as Nora #1 (and Reservation of Right to File Further Motions to Dismiss as a Sanctions for OLR's Bad Faith Continuing Conduct)*.

On March 8, 2016, Nora filed *Notice of Filing of Proposed Modified Amended Complaint Excluding Allegations of Fact Known to be False or Pleaded with Reckless Disregard for the Truth and Excluding Misrepresentations of Law and Mixed Allegations of False Facts and Misrepresentations of Law for Determination of Probable Cause on the Remaining Allegations at a Franks Hearing*.

On March 28, 2016, OLR filed *OLR's Response to Respondent's Supplement to Motion*.

On April 14, 2016, Nora filed *Reply on Respondent's Jurisdictional Objection and Motions to Dismiss for Lack of Probable Cause to Initiate These Proceedings; for a Franks Hearing to Dismiss for Lack of Probable Cause; Further or Alternative Motion to Dismiss for Selective and Vindictive Prosecution; and Further or Alternative Motion to Dismiss as a Sanction for Bad Faith*

Initiation and Continuation of These Proceedings and the Companion Case Previously Identified as Nora #1 (and Reservation of Right to File Further Motions to Dismiss as a Sanctions for OLR's Bad Faith Continuing Conduct).

On April 26, 2016, I issued a *Decision on All Pending Motions*. All of Nora's motions were denied. Nora was given twenty (20) days from the date of the Decision to file an answer to the amended complaint. Nora was advised that there would be no extensions of the twenty (20) day time limitation. Both parties were advised that all remaining terms of the scheduling order issued on February 18, 2016, remained in effect and were to be followed by the parties.

On April 26, 2016, OLR filed a *Counsel Reassignment Notice*. On the same date, Attorney Paul W. Schwarzenbart filed a notice of appearance on behalf of the Office of Lawyer Regulation, replacing OLR Assistant Litigation Counsel Sheryl St. Ores.

On May 16, 2016, once the motions were resolved, Nora filed an *Answer and Affirmative Defenses; Continuing Objection and Reservation of Rights* to the amended complaint.

On May 16, 2016, Nora also filed two motions:

1. *Notice of Motion and Motion for Damages Pursuant to Wis. Stats. Sec. 895.044.*

2. *Notice of Motion and Motion to Disqualify Attorney Paul W. Schwarzenbart of Stafford Rosenbaum, LLP as Counsel for the Office of Lawyer Regulation for Conflict of Interest, as a Material Witness and as Complicit in Concealment of Crimes Committed by Attorney David M. Potteiger and Employees and Agents of the Office of Lawyer Regulation in Case No. 2013AP000653-D.*

On or about May 19, 2016, Attorney Schwarzenbart made a letter request to me to set a briefing schedule in relation to Nora's motions.

On May 20, 2016, Nora filed *Objection to Letter Request for Briefing Schedules on Motion for Damages Pursuant to Wis. Status. Sec. 895.044 and for the Disqualification of Attorney Paul W.*

Schwarzenbart and Demand for Evidentiary Hearing on Motion for Damages. In her objection, Nora also indicated she may file an amended motion to disqualify Attorney Schwarzenbart. Nora also filed *Corrected Answer and Affirmative Defenses; Continuing Objection and Reservation of Rights*.

On May 24, 2016, I issued an Order: overruling Nora's objection to a briefing schedule; giving Nora five (5) days from the date of the Order to file any amended motion; giving Nora fifteen (15) days from the date of the Order to file any brief and/or affidavits in support of her two motions; giving OLR fifteen (15) days from receipt of Nora's brief to file a response to Nora's brief and motions; and giving Nora five (5) days from receipt of OLR's brief to file a reply. Both parties were previously advised of the hearing dates in this matter and my reluctance to delay the disciplinary hearing in this case.

On May 25, 2016, Nora filed *Notice of Motion and Amended Motion to Disqualify Attorney Paul W. Schwarzenbart of Stafford Rosenbaum, LLP as Counsel for the Office of Lawyer Regulation for Conflict of Interest, as a Material Witness and as Complicit in Concealment of Crimes Committed by Attorney David M. Potteiger and Employees and Agents of the Office of Lawyer Regulation in Case No. 2013AP000653-D*.

On June 3, 2016, OLR filed:

1. *Notice of Motion and Complainant's Motion to Amend or Correct Pleadings.*
2. *Brief in Support of Complainant's Motion to Amend or Correct Pleadings.*
3. *Affidavit of Paul W. Schwarzenbart in Support of Complainant's Motion to Amend or Correct Pleadings.*
4. *Affidavit of Travis J. Stieren in Support of Complainant's Motion to Amend or Correct Pleadings.*
5. *Complainant's Brief Opposing Respondent's Motion for Damages (Wis. Stat. §895.044).*

On June 9, 2016, OLR filed *Complainant Office of Lawyer Regulation's Brief Opposing Respondent Nora's Motion to Disqualify Counsel and Affidavit of Paul W. Schwarzenbart Opposing Respondent's Motion to Disqualify Counsel.*

On July 9, 2016, Nora filed *Notice of Filing Email Activities and Events for the Record.*

On July 11, 2016, Nora filed *Motion for Relief from Scheduling Orders.*

On July 13, 2016, I issued an order setting a briefing schedule. Nora's motion for relief from prior scheduling orders was denied. I had already advised the parties in prior orders that I would not change the date of the hearing or the discovery and witness deadlines set forth in my initial scheduling order.

Both parties were advised that any future motions in this case must take the form of a motion stating the precise relief sought, followed by a separate brief or argument in support of the motion, limited to ten (10) pages. Any brief or argument had to be related to the motion. I reserved the right to give no consideration to argument that was not related to the specific motion and I would not consider arguments that were repetitious in nature to arguments previously advanced by a party and denied. The parties were advised that if they chose to file a motion for reconsideration, the motion should be properly titled as a motion for reconsideration.

On July 22, 2016, Nora filed Verified *Notice of Motion to Withdraw her May 16, 2016 Motion for Damages and her May 25, 2016 Amended Motion to Disqualify Attorney Paul W. Schwarzenbart Based on Discovery of New Evidence and for Leave to Re-File Her Motions Based on Newly Discovered Evidence and, in the Alternative, to Supplement Her Motions.*

On July 28, 2016, I issued an order denying Nora's *Motion to Withdraw her May 16, 2016 Motion for Damages and her May 25, 2016 Amended Motion to Disqualify Attorney Paul W.*

Schwarzenbart Based Upon Discovery of New Evidence. Nora's motion for damages and motion to disqualify Attorney Paul W. Schwarzenbart had been pending a substantial period of time. The parties and I had all incurred substantial time in relation to Nora's two pending motions. While Nora attempted to argue that there was "newly discovered evidence" in relation to her pending motion for damages and her pending motion to disqualify Attorney Paul W. Schwarzenbart, there was nothing in the motions or attachments to support the claim that there was "newly discovered evidence" of a relevant nature.

On August 1, 2016, OLR filed *Reply Brief in Support of Complainant's Motion to Amend or Correct Pleadings*.

On August 16, 2016, I issued a *Decision on Pending Motions and Order*. Nora's motion for damages pursuant to Wis. Stat. §895.044 and motion for disqualification of OLR's counsel, Attorney Paul W. Schwarzenbart, were denied. OLR's motion to amend or correct pleadings was granted. Nora was warned that any future motions filed by her may not be repetitive to motions previously filed and ruled upon and that repetitive motions would be summarily denied and opposing party would not be required to file opposing briefs. A motion for reconsideration, however, was appropriate.

Nora and OLR were again advised that all future motions filed by either party should take the form of a simple statement of the motion, accompanied by a separate supporting single brief of no more than ten (10) pages. The motion and supporting argument were to be separated into separate documents and a "run-on" presentation of a motion and argument in a single document was not permitted. Parties were warned that non-compliance would result in me summarily dismissing any such motion.

On August 17, 2016, Nora filed:

1. *Jurisdictional Objection and Notice of Motions and Motions: (1) To Dismiss for Lack of Subject Matter and Personal Jurisdiction; and Alternative Motions (2) To Require the Filing and Service of the Second Amended Complaint; (3) To Allow Filing of a Response to the Second Amended Complaint Upon Service; (4) For Relief From Scheduling Order; (5) For Continuance of Proceedings to the Alternative Hearing Date Set Forth in the February 18, 2016 Scheduling Order; Reserving Rights to Amend Motion for Writ of Mandamus Requiring Referee to Provide Respondent With Right to be Heard.*
2. *Brief in Support of Jurisdictional Objection and Motions: (1) To Dismiss for Lack of Subject Matter and Personal Jurisdiction; and Alternative Motions (2) To Require the Filing and Service of the Second Amended Complaint; (3) To Allow Filing of a Response to the Second Amended Complaint Upon Service; (4) For Relief From Scheduling Order; (5) For Continuance of Proceedings to the Alternative Hearing Date Set Forth in the February 18, 2016 Scheduling Order; Reserving Rights to Amend Motion for Writ of Mandamus Requiring Referee to Provide Respondent With Right to be Heard.*

I issued an Order dated August 18, 2016, in relation to Nora's brief and motions filed on August 17, 2016. OLR was given until August 26, 2016, to file a response or a brief in relation to said motions. Nora had until September 2, 2016, to file any reply to OLR's brief or response. The parties were reminded that given the time restraints and the scheduled hearing in this matter, time limitations would be strictly enforced, and that pursuant to my Order of August 16, 2016, OLR should file its amended complaint as soon as possible. Nora would have the statutory time period from the date of receipt to file an answer.

On August 18, 2016, OLR filed a *Second Amended Complaint*.

I issued an Order on August 23, 2016. The final adjourned scheduling conference then scheduled for August 30, 2016 was postponed, and the parties were advised a new date would be set in a future order. The parties were advised that the remaining deadlines set forth in the original scheduling order dated February 18, 2016, remained in effect.

On August 23, 2016, OLR filed:

1. *Notice of Motion and Complainant's Motion to Determine Sufficiency of Responses to Requests for Admissions and Alternative Motion to Take Judicial Notice.*
2. *Complainant's Brief in Support of Motion to Determine Sufficiency of Responses to Requests for Admissions and Alternative Motion to Take Judicial Notice.*
3. *Affidavit of Paul W. Schwarzenbart in Support of Complainant's Motion to Determine Sufficiency of Responses to Requests for Admissions and Alternative Motion to Take Judicial Notice.*

On August 23, 2016, Attorney John William Verant filed an *Application for Pro Hac Vice* on behalf of Nora.

On August 24, 2016, Attorney Verant filed a *Notice of Limited Appearance by Attorney John William Verant, Pro Hac Vice.*

On August 25, 2016, OLR filed *Complainant's Response to Respondent's Jurisdictional Objection and Motions Filed August 17, 2016* and *Affidavit of Paul W. Schwarzenbart Opposing Respondent's Jurisdictional Objection and Motions Filed August 17, 2016.*

On August 26, 2016, Nora filed *Verified Objection to August 23, 2016 Motion to Determine Sufficiency of Responses to Requests for Admission and Alternative Request for Judicial Notice and Objection to August 24, 2016 Order.*

On August 29, 2016, Nora filed *Brief in Opposition to August 23, 2016 Motion to Determine Sufficiency of Responses to Requests for Admission and Alternative Request for Judicial Notice and Objection to August 24, 2016 Order and Reply on Objection to Continuing Effect of February 18, 2016 Scheduling Order Enter on Apparent Jurisdiction Under January 19, 2016 Amended Complaint Now Replaced by Second Amended Complaint Filed on August 18, 2016 Divesting Tribunal of Subject Matter Jurisdiction (or Competency to Proceed).*

Given the filing of the Second Amended Complaint by OLR, the original scheduling order in this matter needed to be revised in a limited fashion. I issued an order on August 31, 2016. Alternative hearing dates were scheduled in the initial scheduling order dated February 18, 2016, in the event the initial hearing dates became impossible. The hearing in this matter would now proceed on the alternative hearing date of October 31, 2016 at 8:30 a.m. The hearing would continue on November 1, 2016, through November 4, 2016, at 8:30 a.m., and again on November 7, 2016, through November 9, 2016, at 8:30 a.m., if necessary. The hearing was to be held at Gramann Reporting, Large Conference Room, 14 West Mifflin Street, Suite 311, Madison, Wisconsin 53703.

The deadline for discovery had been August 30, 2016. However, given the filing of the second amended complaint, a new deadline for limited additional discovery was now October 17, 2016. Any additional discovery was strictly limited to discovery necessitated by the two minor changes made in the second amended complaint. The parties were limited to discovery in relation to the revised case number in paragraph 6 of the second amended complaint and the change in language found in paragraph 19 of the second amended complaint. Parties were advised that restrictions on discovery would be strictly enforced and interpreted narrowly.

The deadline for Nora to name her witnesses had been July 1, 2016. Nora had not named any witnesses. Nora would now have until September 20, 2016, to name any witnesses necessitated by the two minor changes made in paragraph 6 and paragraph 19 of the second amended complaint. Evidence and testimony from any such witnesses would be strictly limited to the changes made in the second amended complaint. A final telephonic scheduling conference was scheduled for October 22, 2016, at 11:00 a.m.

On September 7, 2016, Nora filed *Preliminary, Contingent List of Respondent's Witnesses and Jurisdictional Objection Maintaining and Preserving Motion to Dismiss for Lack of Subject Matter Jurisdiction or Competency of the Tribunal; Conditional Answer and Affirmative Defenses; Allegations in Support of Action for Damages Under Wis. Stats. Sec. 895.044 and Reservation of Rights.*

On September 7, 2016, Nora filed *Jurisdictional Objection Maintaining and Preserving Motion to Dismiss for Lack of Subject Matter Jurisdiction or Competency of the Tribunal; Conditional Answer and Affirmative Defenses; Allegations in Support of Action for Damages under Wis. Stats. Sec. 895.044 and Reservation of Rights.*

Nora did not comply with the original scheduling order in relation to the discovery deadline of August 30, 2016. She attempted to use the filing of the second amended complaint as an excuse for discovery after the discovery deadline had passed. Given the brevity of the new allegations in the second amended complaint, Nora was denied any additional discovery.

On September 8, 2016, Nora filed *Revised Declaration of Service Jurisdictional Objection Maintaining and Preserving Motion to Dismiss for Lack of Subject Matter Jurisdiction or Competency of the Tribunal; Conditional Answer and Affirmative Defenses; Allegations in Support of Action for Damages Under Wis. Stats. Sec. 895.044 and Reservation of Rights.*

I issued an Order on September 15, 2016. *Complainant's Motion to Determine Sufficiency of Responses to Requests for Admissions and Alternative Motion to Take Judicial Notice* was granted. Pursuant to Wis. Stat. § 804.1 l(l)(c), the copies of the exhibits served upon Nora with OLR's requests for admissions, which documents constitute the complainant's proposed trial exhibits filed and served in this matter, were found to be true and authentic copies of what the documents were purported to be, as they are described in the requests for admissions. The admissibility of the

documents at trial was not a subject of OLR's motion heard on August 30, 2016, and the admissibility of the documents was reserved for trial.

On September 15, 2016, Nora filed *Objection to Entry of Proposed Order and Motion for Reconsideration for Oral Ruling of August 30, 2016*.

On September 20, 2016, Nora filed *Final List of Witnesses on Behalf of Wendy Alison Nora*.

On September 20, 2016, I issued a *Decision on Pending Motions and Order*. Nora's motion to dismiss for lack of subject matter and personal jurisdiction was denied. Nora's motion to require the filing and service of a second amended complaint was moot and was denied. Nora's motion to allow filing of a response to the second amended complaint was moot given that the second amended complaint was filed and answered by Nora. Nora's motion for relief from the scheduling order was moot given that changes had already been made to the original scheduling order. Nora's motion for continuance of proceedings to the alternative hearing dates set forth in the February 18, 2016, scheduling order was moot given such changes had already been made to the original scheduling order. Said motion was therefore denied.

On September 23, 2016, OLR filed:

1. *Notice of Motion and Complainant's Motion to Strike Answer and for Default and Alternative Motion for Other Relief.*
2. *Complainant's Brief in Support of Motion to Strike Answer and for Default and Alternative Motion for Other Relief.*
3. *Affidavit of Paul W. Schwarzenbart in Support of Complainant's Motion to Strike Answer and for Default and Alternative Motion for Other Relief.*

On September 26, 2016, I issued an order denying Nora's *Objection to Entry of Proposed Order and Motion for Reconsideration of Oral Ruling of August 30, 2016*.

On September 27, 2016, I issued a *Decision and Order*. OLR had filed a motion to *Strike Respondent's Responsive Pleading Filed on September 8, 2016*. In the alternative, OLR asked for an order striking Nora's new list of witnesses filed on September 7, 2016 and September 20, 2016, and for a protective order in relation to the voluminous discovery requests filed by Nora as a result of the filing of the second amended complaint.

The initial scheduling order contained a discovery deadline of August 30, 2016. The initial scheduling order also provided that OLR was to name witnesses by June 1, 2016. Nora was to name her witnesses by July 1, 2016. The initial scheduling order further provided that copies of all hearing exhibits were to be filed with me by August 30, 2016. Nora did not name any witnesses by July 1, 2016. Nora did not file any exhibits by August 30, 2016. The time for discovery ended August 30, 2016.

On August 16, 2016, I granted a request by OLR to file a second amended complaint. As referenced in prior orders I had issued, the second amended complaint made very nominal changes to the prior amended complaint. Allegations in paragraph 6 of the original amended complaint were changed in the second amended complaint to accurately identify a Wood County case which was the subject matter of OLR's allegations. OLR had misidentified the case number of the Wood County case. I had previously found that Nora was fully aware of the error and that she was fully aware of the identity of the correct Wood County case. Her initial responsive pleading shows there was no confusion on her part. In addition, OLR changed the allegations in paragraph 19 of the second amended complaint such that "three additional unlawful ex parte letter communications" was changed to "three additional unlawful ex parte communications."

As a result of the filing of the second amended complaint, Nora had the right to file an answer to the second amended complaint. That answer was filed on September 7, 2016. Despite the brevity of the changes made in the second amended complaint, Nora filed a 128 page "answer" to the second amended complaint. Much of the answer to the second amended complaint was argument. While Nora had the right to answer the allegations in the second amended complaint and to set forth all defenses to the allegations, argument was not permitted. Briefs are used to present argument, not 128 page answers which were a combination of defenses and arguments.

The changes to paragraph 6 and paragraph 19 as alleged in the second amended complaint did not reopen all the deadlines set forth in the original scheduling order. By way of several orders I had previously issued in this case, I had stated that the discovery deadline, the deadline for naming witnesses, and the deadline for providing exhibits was extended to October 24, 2016, only in relation to the revised allegations in paragraph 6 and paragraph 19 of the second amended complaint.

Nora was given the ability to conduct any additional necessary discovery in relation to the changes made to paragraph 6 and paragraph 19 of the second amended complaint. She was also given the opportunity to name any witnesses that were directly related to those changes. She could also file any necessary exhibits in relation to the changes made in the second amended complaint. However, Nora did not have the right to conduct wholesale discovery, the naming of witnesses, or the filing of proposed exhibits based upon the very limited changes made to paragraph 6 and paragraph 19 in the second amended complaint, given she had missed deadlines in the original scheduling order.

I had previously warned Nora that the filing of the second amended complaint did not generally reopen and establish new overall deadlines for discovery, the naming of witnesses, or the

filing of exhibits. Nora's actions in filing voluminous discovery demands after the filing of the second amended complaint shows that she either did not understand my previous orders permitting very limited additional discovery or she was blatantly disregarding orders I had previously issued.

Nora repeatedly asserted her defense that OLR had lost jurisdiction in this case given her allegations that the Preliminary Review Committee had not approved the revised allegations now made in paragraph 6 and paragraph 19 of the second amended complaint. I had previously ruled that the changes were nominal and did not require re-approval by the Preliminary Review Committee. The essence of the misconduct in this case was before the Preliminary Review Committee and they found probable cause to proceed with a disciplinary complaint. The issue before the Preliminary Review Committee was not the precise case number in the Wood County case or the precise allegations as found in paragraph 19 of the second amended complaint. It is clear from the record in this case that the Preliminary Review Committee considered what happened in the only Wood County foreclosure case before them. The changes in the second amended complaint were technical in nature and I was satisfied were part of the totality of the materials presented to the Preliminary Review Committee in support of the finding of probable cause to proceed with the disciplinary complaint in this case.

Despite being warned that the filing of the second amended complaint did not reopen all deadlines Nora had missed as set forth in the original scheduling order, Nora named 46 witnesses, including 14 judges. She served seven new sets of discovery constituting 310 new inquiries. She made 309 requests for production, 130 interrogatories and an additional 226 requests for admissions. She did all of this despite my clear orders which restricted any additional discovery, naming of

witnesses, and filing of exhibits to the precise changes made in paragraph 6 and paragraph 19 of the second amended complaint.

OLR's motions were held in abeyance pending further consideration by me. Nora was given ten (10) days from the date of the order to file a brief setting forth her arguments explaining how each of her new discovery requests and her newly named witnesses related specifically to the new allegations in paragraph 6 and paragraph 19 of the second amended complaint. Generalizations were not permitted and Nora was to explain how the changes in paragraph 6 and paragraph 19 resulted in the need for each new discovery demand and each newly named witness. In relation to any exhibits Nora now wished to file, she was to explain why they were now necessary given the changes made to paragraph 6 and paragraph 19 of the second amended complaint. OLR was not required to respond to any of the new discovery requests pending further order. Nora was also to file a revised answer to the second amended complaint. The answer was to set forth only her answers to the allegations of the second amended complaint and her defenses. The answer was not to contain any argument. Nora was given the opportunity to file a separate brief, if she wished, in relation to her answers and defenses. Said amended answer was due ten (10) days from the date of the order. Both parties were again advised that there would be no further adjournments of the hearing scheduled to begin on October 31, 2016.

On October 7, 2016, Nora filed *Objection to September 7, 2016 Ultra Vires, Void or Invalid and Unconstitutional Order*.

In my order dated October 13, 2016, Nora was given one more opportunity to file an appropriate answer to the second amended complaint. The order stated the answer may not contain argument and must be limited to admitting or denying the allegations of the second amended

complaint and stating any affirmative defenses alleged by Nora. Nora was given ten (10) days from the date of the order to file her answer to the second amended complaint.

On October 20, 2016, Nora filed *Notice of Filing of Four Versions of Revised Answer and Affirmative Defenses; Continuing Objection and Reservation of Rights Under Threat of Default Under Protest and Errors in Syntax and Typographical Errors Corrected in Bold Italics for the Record for Filing Only and Renumbered Paragraph 172 (Not in Italics) Objection to September 27, 2016 Ultra Vires, Void or Invalid and Unconstitutional Order (Not a Motion for Reconsideration of Order dated October 13, 2016) and Brief in Opposition to Ultra Vires and Unconstitutional Motions in Proceedings Continuing Without Subject Matter Jurisdiction or Competency Under Protest.*

On October 20, 2016, OLR filed *Complainant's Supplemental Brief in Support of Motion to Strike Answer and for Default and Alternative Motion for Other Relief.* The motion was held open.

After several hearing dates became impossible, the disciplinary hearing in this case was again scheduled to begin on October 31, 2016, in Madison, Wisconsin. On the morning of the hearing, Nora filed *Emergency Motion for Continuance*, Nora's *Affidavit in Support of Emergency Motion for Continuance* and Verant's *Affidavit in Support of Emergency Motion for Continuance*. Nora requested an adjournment due to alleged medical problems being experienced by her co-counsel, Attorney John William Verant.

Given the request for adjournment, I scheduled a telephonic scheduling conference for 9:00 a.m. on October 31, 2016. Further, I made many telephone calls and wrote many emails to the court reporter and various other individuals involved, given the need to cancel the hearing. When I first received Nora's emails, both the court reporter and I were in the process of beginning our travel to Madison for the hearing, which was to begin at 8:45 a.m.

Present for the telephonic scheduling conference at 9:00 a.m. on October 31, 2016, was Attorney Paul W. Schwarzenbart on behalf of OLR. Nora appeared in person. Attorney Verant, according to Nora, was unavailable for the scheduling conference.

On October 31, 2016, I issued an order scheduling new hearing dates. The hearing was now scheduled for November 17, 2016, continuing on November 18, 2016 through November 21, 2016, in Madison, Wisconsin.

On October 31, 2016, Nora made an offer of proof which included hundreds of pages of documents and exhibits.

This matter came on for hearing in Madison, Wisconsin, on November 17, 2016. OLR appeared by Attorney Paul W. Schwarzenbart. The respondent, Attorney Wendy Alison Nora, appeared in person.

Nora, prior to the commencement of the hearing, filed by e-mail, a motion entitled "*Second Emergency Motion for Continuance Based Upon New Evidence and Constitutional Objection Pursuant to Article One, Section 21 of the Wisconsin Constitution, Wis. Stats. Sec. 802.045 and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution*". Given the late filing of the motion and the scheduled disciplinary hearing, the motion was dealt with at the commencement of the hearing in Madison, Wisconsin.

Both parties were given the opportunity to be heard on the motion. OLR asked that the motion be denied and that OLR's pending motion for default judgment be granted. Nora argued that she needed her co-counsel to be present for the hearing. She further argued that the medical condition of Attorney Verant was such that he could not drive or participate in the scheduled hearing.

Nora further argued that she could not find substitute co-counsel in time for the scheduled hearing.

I advised Nora that I was concerned with another last minute motion to adjourn the hearing. I further advised her that there was really no reason I should not grant OLR's motion for default, given the delays and dilatory conduct which had already occurred in this case. I advised both parties that a new hearing would be scheduled, but that I would be most reluctant to grant a fourth adjournment of the hearing in this case. Both counsel were advised to be prepared on the next hearing date and that excuses and further requests for adjournment would not be tolerated.

On November 28, 2016, I issued an order scheduling new hearing dates. The disciplinary hearing in this case would now take place on January 19, 2017, at 8:30 a.m. at the Milwaukee Bar Association Building, 424 East Wells Street, the Cardozo Room, Milwaukee, Wisconsin. The hearing would continue on January 20, 2017, at 8:30 a.m. at the same location. The hearing would continue on January 23, 2017, in Madison, Wisconsin at Gramann Reporting, Large Conference Room, 14 West Mifflin Street, Suite 311, Madison, Wisconsin. The hearing would continue in Madison on January 24, 2017, through January 27, 2017, if needed. The hearing would commence each morning at 8:30 a.m. On January 18, 2017, this matter came on for a telephonic motion hearing in Milwaukee, Wisconsin, at approximately 10:30 a.m., to consider an "emergency" motion that was filed by Attorney John William Verant for adjournment of the disciplinary hearing scheduled to begin on January 19, 2017. The hearing was reported by Rosanne Pezze, RPR/CPR from Gramann Reporting. Appearances were Attorney Paul W. Schwarzenbart on behalf of the Office of Lawyer Regulation. Attorney John William Verant appeared on behalf of Attorney Wendy Alison Nora. Nora did not appear by telephone for the motion hearing.

Attorney Verant indicated that Nora had fallen and sustained a concussion on January 17, 2017. He further indicated that she had been conveyed by ambulance to a Madison hospital where a concussion was diagnosed. Attorney Verant further explained that the treating physician indicated Nora would have lingering affects from the concussion and would not be in condition to attend the seven day hearing scheduled to begin on January 19, 2017, in Milwaukee.

After hearing argument from both attorneys, I explained my concern with the fact that this was the third emergency motion for a continuance in this case. The first occasion occurred on the morning of the hearing scheduled on October 31, 2016. That hearing was adjourned based upon representations that Attorney Verant had back issues that made his attendance at the hearing impossible. On, November 17, 2016, the disciplinary hearing in this case was again postponed because Attorney Verant continued to have medical problems in relation to his back, which again made it difficult for him to attend the scheduled disciplinary proceeding. I advised the parties that after two emergency adjournments of the hearing I was most reluctant to grant an additional adjournment. I further advised Attorney Verant that all these "emergency" requests for adjournment were made at the last moment. Attorney Schwarzenbart expressed concern with the fact that his first two witnesses had now been scheduled and postponed on three occasions. In addition, I noted that OLR, and I as referee in this matter, had also incurred substantial time and expense in scheduling multiple hearings, only to have them postponed at the last moment.

On January 19, 2017, I issued an Order that the disciplinary hearing in this case would commence on February 15, 2017, at 8:30 a.m. at the Milwaukee Bar Association Building, 424 East Wells Street, the Cardozo Room, Milwaukee, Wisconsin. The hearing would continue on February 16, 2017 and February 17, 2017 in relation to the Milwaukee witnesses and in accordance with

Attorney Schwarzenbart's desired presentation of evidence. The hearing would move to Madison at Gramann Reporting, Large Conference Room, 14 West Mifflin Street, Suite 311, Madison, Wisconsin, on February 20, 2017, through February 24, 2017, if necessary. The hearing would commence each morning at 8:30 a.m.

Attorney Verant was ordered to file copies of all medical and hospital records in relation to Nora's injuries which occurred on January 17, 2017. Said medical records were to be filed no later than ten (10) days from the date of the order. Attorney Verant was also ordered to provide me with an updated medical report fifteen (15) days from the date of the order as to the condition and recovery of Nora. As an alternative, Attorney Verant asked for and was granted the right to file a single letter from him or Nora indicating she was completely recovered from her concussion.

On Thursday, February 9, 2017, this matter came on for a telephonic status hearing. I arranged for the telephonic conference after receiving e-mails and communications from Nora indicating she was still suffering from the effects of a concussion which had occurred on January 17, 2017. OLR appeared by their counsel, Attorney Paul W. Schwarzenbart. Attorney John William Verant appeared as co-counsel on behalf of Nora. Attorney Wendy Alison Nora also appeared in person. All appearances were by telephone. The hearing was reported by Carla J. Van Roo, RPR/CRR from Gramann Reporting.

At the time of this hearing, Nora was not in compliance with my order of January 19, 2017. That order required Attorney Verant or Nora to provide me with an updated medical report within fifteen (15) days from the date of that order. I received no such medical report.

Nora indicated she had received no additional medical treatment since the emergency room treatment received following her fall on January 17, 2017. She indicated she only returned to the

emergency room on February 8, 2017, the day before this hearing. She explained that her new primary physician in Verona would not see her until she returned to the emergency room and had a CAT scan. While the transcript of the hearing speaks for itself, two items stood out to me as referee. First, Nora acknowledged that since she sustained the concussion, she had traveled to Las Vegas with Attorney Verant in relation to legal matters in Las Vegas. Secondly, while Nora asserted continuing memory issues, slowness in her thinking and other symptoms of the concussion, she sought no additional medical treatment until she returned to the emergency room on the day before the scheduled telephonic conference.

On February 14, 2017, I issued an Order scheduling new hearing dates in this matter. The hearing was now scheduled to commence on March 22, 2017, at 8:30 a.m. at the Milwaukee Bar Association Building, 424 East Wells Street, the Cardozo Room, Milwaukee, Wisconsin. The hearing would continue in Milwaukee on March 23, 2017, and March 24, 2017 at 8:30 a.m., in relation to the Milwaukee witnesses and in accordance with Attorney Schwarzenbart's desired presentation of evidence. The hearing would move to Madison at Gramann Reporting, Large Conference Room, 14 West Mifflin Street, Suite 311, Madison, Wisconsin, on March 27, 2017. The hearing would continue in Madison on March 28, 2017, through March 31, 2017, until completed. The hearing would commence each morning at 8:30 a.m.

Nora was ordered to provide an updated medical report from her treating physician(s) indicating her condition, treatment, and compliance with suggested medical procedures in relation to her concussion symptoms within ten (10) days of the order. In lieu of such medical report, Nora was to file a letter indicating she had recovered from her concussion and related symptoms.

It was also ordered that if Nora continued to suffer from symptoms of her concussion, that an updated medical report should be filed by Nora no later than March 13, 2017.

On March 6, 2017, Nora filed *Notice of Filing Under Protest: Medical "Update" and Confidential Medical Records Filed Under Seal Pursuant to Wis. Stats. Sec. 146.82(1)*.

The hearing in this matter commenced at the Milwaukee Bar Association, 424 East Wells Street, Milwaukee, Wisconsin, on March 22, 2017, at approximately 9:30 a.m. The hearing continued in Milwaukee on March 23, 2017, and March 24, 2017. The hearing concluded at approximately 4:21 p.m., on March 27, 2017, at Gramann Reporting, Large Conference Room, 14 West Mifflin Street, Suite 311, Madison, Wisconsin.

On March 30, 2017, I issued a *Post-Hearing Order* giving the parties an opportunity to file additional argument. OLR was given forty-five (45) days from the date of the filing of the hearing transcript to submit any additional written argument and any authorities in support of requested discipline in this case. While a formal brief was optional, a memorandum providing additional argument and authorities was also appropriate. Nora was given forty-five (45) days from the date OLR filed their brief to respond to OLR's argument and authorities, and to provide any additional argument or authorities as Nora wished. OLR would then have twenty (20) days from the date of filing of Nora's brief to reply to any written arguments submitted by Nora.

On April 17, 2017, Nora filed *First Statement of Supplemental Authority March 23, 2017, Opinion in Sundquist V. Bank of America N.A.*

On May 15, 2017, OLR filed *Complainant's Post-Trial Brief*.

On May 26, 2017, Nora filed *Verified Motion for Extension of Time to File Post-Hearing Brief and Appendix in Response to the Complainant's May 15, 2017 Brief*.

On June 8, 2017, I issued an order giving Nora until July 24, 2017, to file her post-hearing brief.

On July 20, 2017, Nora filed *Second Motion for Extension of Time to File Post-Hearing Brief*. I received the motion on July 24, 2017, upon my return from a vacation. Nora made two arguments in support of her motion. First, she maintained that she continued to suffer memory and related issues as a result of a fall on January 17, 2017. Nora supplied no additional supporting medical information for her request for a second extension. Also, Nora argued for the first time that she intended to rely on an unofficial video of the disciplinary hearing by an outside alleged reporter, rather than the official court reporter transcript, to prepare her post-hearing brief. I noted that Nora was aware at the conclusion of the hearing on March 27, 2017, that the subject video would be incomplete given that the alleged reporter had been removed from the hearing room prior to the completion of the hearing.

On July 21, 2017, OLR filed *Complainant's Brief Opposing Respondent's Second Motion for an Extension of Time to File Post-Hearing Response Brief*.

On July 24, 2017, I issued an *Order* in relation to Nora's motion for a second extension of time to file her post-hearing brief to August 23, 2017. The motion was granted in part and denied in part. Nora was given until August 15, 2017, to file her post-hearing brief in this matter. Nora was advised that I would be most reluctant to grant any further extensions of time to file her post-hearing brief and she was encouraged to take this opportunity to file her brief by August 15, 2017.

On August 15, 2017, at approximately 5:00 p.m., I received, by e-mail, a *Verified Motion for Third Extension of Time to File Post-Hearing Brief and Appendix in Response to the Complainant's May 15, 2017 Brief Based on New Medical Evidence* from Nora. OLR did not oppose

a further extension to the date requested by Nora of August 29, 2017. I noted from the supporting medical documents filed by Nora with her request for extension that her treating physician did not find that Nora was incapable of preparing and filing a post-hearing brief, but that she needed additional time to prepare the brief, given her current medical situation. I further noted that granting the third extension would result in Nora having had approximately sixty (60) additional days to file her post-hearing brief.

I issued an *Order* on August 17, 2017, giving Nora until August 29, 2017, to file her post-hearing brief.

Nora filed a motion on August 28, 2017, seeking a stay of the briefing schedule in these proceedings due to temporary disability. A hearing on this motion was held on August 31, 2017. The complainant, the Office of Lawyer Regulation ("OLR"), appeared by its retained counsel, Paul W. Schwarzenbart. Respondent Nora appeared pro se.

Based upon my review of the motion and supporting materials, for the reasons stated on the record, I found that: Nora had provided me a copy of a physician's report recommending that she refrain from practicing law for a period of ninety (90) days in order to facilitate her recovery; that Nora had represented to me that on or before September 21, 2017, she should take all actions necessary and proper to obtain stays or extensions in all her pending cases through December 20, 2017, consistent with the relief she sought in the motion, or, alternatively, to obtain substitution of counsel for her clients in those matters, subject only to certain exceptions for limited purposes as described on the record on September 5, 2017; that Nora represented to me that she would refrain from the practice of law from September 21 through December 20, 2017, consistent with the recommendation of her physician, subject only to certain exceptions for limited purposes as described on the record on September 5, 2017.

It was ordered that this matter would be stayed through December 20, 2017; that Nora should file and serve her post-trial response brief on or before January 9, 2018; that by no later than September 21, 2017, Nora should take all action necessary and proper to obtain stays or extensions in all her pending cases through December 20, 2017, or, alternatively, to obtain substitute counsel for her clients in those matters, subject only to the exceptions for limited purposes as described on the record on September 5, 2017; that Nora would refrain from practicing law from September 21 through December 20, 2017, consistent with the recommendation of her physician, subject only to the exceptions for limited purposes as described on the record on September 5, 2017. This order did not preclude Nora from attending continuing legal education classes from the date of this order through December 20, 2017.

On September 7, 2017, Nora filed *Procedural and Substantive Objection to September 6, 2017 Order and Reservation of Rights to Seek Relief from Failure to Accommodate and Discrimination Against a Qualified Individual Under the Americans with Disabilities Act as Amended Effective January 1, 2009 (ADAAA) At 42 U.S.C. Sec. 12101, Et. Seq.*

On September 11, 2017, Nora filed *Errata Re: Objection to September 6, 2017 Order and Reservation of Rights to Seek Relief from Failure to Accommodate and Discrimination Against a Qualified Individual Under the Americans with Disabilities Act as Amended Effective January 1, 2009 (ADAAA) at 42 U.S.C. Sec. 12101, Et. Seq.; Addendum to Objection; and Reservation of Rights.*

On January 8, 2018, Nora filed *Verified Motion for Extension of Time to File Post-Hearing Brief and Appendix as an Accommodation under 42 U.S.C. Sec. 12101, Et Seq. Known as the Americans with Disabilities Act as Amended Effective January 1, 2009 (ADAAA).*

On January 18, 2018, I issued an *Order* giving Nora until February 15, 2018, to file her post-hearing brief. Nora was advised there would be no further extensions, and that if she did not file her post-hearing brief by February 15, 2018, I would proceed with my referee's report and recommendation without the benefit of her brief. Further redundant motions and requests for extensions would be summarily denied.

On February 23, 2018, Nora filed *Respondent's Post-Hearing Brief and Motion for Acceptance of Late-Filed Request for Judicial Notice*.

On February 28, 2018, OLR filed *Complainant's Post-Trial Reply Brief and Response to Complainant Office of Lawyer Regulation to Respondent Nora's Request for Judicial Notice*.

On March 2, 2018, Nora filed *Notice of Filing of Revised Appendix B in Support of Respondent's Post-Hearing Brief*.

On March 8, 2018, a telephonic hearing was held to consider Nora's requests for judicial notice and to clear up any confusion in the record. At the telephonic hearing, OLR appeared by their counsel Attorney Paul W. Schwarzenbart. Nora appeared on her own behalf.

I found that the four-day disciplinary hearing in this case concluded on March 27, 2017. The evidentiary record was closed at that time. While requests to take judicial notice may be made at any time, I had discretion when granting judicial notice. Asking me to take judicial notice of 29 exhibits nearly a year after the evidentiary record was complete in this case was inappropriate. Many of the requests for judicial notice should have been made during the evidentiary hearing. OLR had already filed their post-hearing brief before the request for judicial notice was made by Nora.

Also, requests for judicial notice are not a substitute for proper preparation and evidentiary presentations during the hearing. However, OLR did not oppose my taking judicial notice of the

following exhibits: Exhibit 1, Exhibit 3, Exhibit 5, Exhibit 6, Exhibit 7, Exhibit 9, Exhibit 10, Exhibit 11, Exhibit 12, Exhibit 13, Exhibit 15, Exhibit 16, Exhibit 17, Exhibit 18, Exhibit 19, Exhibit 20, Exhibit 22, Exhibit 27, and Exhibit 28. It should be noted that all of these exhibits were already part of the record. Rather than citing the record in support of her arguments, Nora offered the exhibits as "excerpts" of the record which she believed would simplify consideration of her arguments. Given that OLR did not oppose my taking judicial notice of said exhibits, but still being concerned with the needless growth of the file in this case, I took judicial notice of said exhibits. It should be noted that my taking judicial notice of documents and exhibits for which I previously denied admission to evidence, but which are part of the record only as offers of proof, did not change the status of the exhibits as only offers of proof. OLR also conditioned their willingness for me to take judicial notice of said exhibits on the fact that they remain part of the record only as offers of proof.

OLR argued against me taking judicial notice of the following exhibits: Exhibit 2, Exhibit 4, Exhibit 8, Exhibit 14, Exhibit 21, Exhibit 23, Exhibit 25, Exhibit 26, and Exhibit 29. OLR's arguments, as set forth in their response to the request for judicial notice, were adopted by me in denying judicial notice of said exhibits.

Given that several of Nora's requests for judicial notice had been denied, she was given the opportunity to correct her post-hearing brief citing the exhibits for which judicial notice had been denied.

On March 13, 2018, I issued an Order granting judicial notice of the following exhibits: Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7, Exhibit 9, Exhibit 10, Exhibit 11, Exhibit 12, Exhibit 13, Exhibit 15, Exhibit 16, Exhibit 17, Exhibit 18, Exhibit 19,

Exhibit 20, Exhibit 22, Exhibit 27, and Exhibit 28. I did not take judicial notice of the following exhibits: Exhibit 8, Exhibit 14, Exhibit 21, Exhibit 23, Exhibit 24, Exhibit 25, Exhibit 26, and Exhibit 29. Exhibits A, B, and C to Appendix B of Nora's post-hearing brief were stricken.

On March 28, 2018, Nora filed *Respondent's Second Amended Post-Hearing Brief Identifying Judicially Notice Exhibits in **Bold** and Identifying Exhibits for Which Judicial Notice was Denied in **Bold, Italics**, and Modifying the Introduction Only to Correct Errata and to Include the Intended Quotation from State V. Hersh Set Forth in **Bold Text** for Which Leave to Modify is Herewith Requested (All Rights Reserved)*.

On April 18, 2018, after I began working on my report and recommendation in this case, I issued an order in relation to due process issues I noted in relation to Count One and Count Four of the second amended complaint. I requested supplemental briefs on the due process issues. Both parties filed briefs.

ISSUES

The following Supreme Court Rules are at issue in this case:

SCR 20:3.1 Meritorious claims and contentions

(a) In representing a client, a lawyer shall not:

(1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;

(2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or

(3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it

is obvious that such an action would serve merely to harass or maliciously injure another.

• • •

SCR 20:3.2 Expediting litigation

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

• • •

SCR 20:8.4 Misconduct

It is professional misconduct for a lawyer to:

• • •

(g) violate the attorney's oath;

• • •

SCR 40.15 Attorney's oath.

• • •

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land;

• • •

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a part or witness, unless required by the justice of the cause with which I am charged.

• • •

FINDINGS OF FACT

1. OLR was established by the Wisconsin Supreme Court and operates pursuant to Supreme Court rules.

2. Respondent, Attorney Wendy Alison Nora (hereinafter “Nora”), is a Wisconsin attorney (State Bar No. 1017043) admitted to practice law in 1975 whose office address is currently listed with the State Bar of Wisconsin as Access Legal Services, 310 Fourth Ave. S., Suite 5010, Minneapolis, MN 55415.

3. Nora's Wisconsin disciplinary history consists of a 30 day suspension as discipline reciprocal to that imposed by the Minnesota Supreme Court for misrepresentations, failing to adequately investigate, bringing a frivolous claim against a bank, inappropriate transfer of assets, and bringing litigation as a delay tactic while asserting a theory that was not justified by existing law. *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W.2d 99 (1993).

REGARDING SPENCER (OLR MATTER NO. 2014MA1570) (COUNTS 1-3)

4. The Spencer Matter was a mortgage foreclosure action commenced in the Circuit Court for Wood County in April 2009. Exhibit (“Ex.”) 1:1; Ex. 2:1; Ex. 53:2.

5. Nora's involvement commenced in early May 2012 when she filed a notice of appearance for defendant Sheila Spencer and a motion to postpone a hearing on a summary judgment motion scheduled for May 23, 2012. Transcript (“Tr.”) at 316:3-19:19; Ex. 1:3-4 (CCAP² Items 32, 36-38).

²CCAP is an acronym for the State of Wisconsin “Consolidated Court Automation Programs.” Wisconsin courts have taken judicial notice of CCAP records. See, e.g., *Kirk v. Credit Acceptance Corp.*, 2013 WI App 32, ¶ 5 n.1, 346 Wis. 2d 635, 829 N.W.2d 522.

6. Nora appeared in person at the May 23, 2012 hearing. Tim Brovold, an attorney from Gray & Associates, S.C. ("Gray Firm"), counsel for the plaintiff, appeared by telephone. Judge Gregory Potter, the presiding judge, granted Nora the postponement she sought and directed Nora to file and serve a list of issues on or before June 29, 2012. Ex. 8; Ex. 9:1, 15-16; Tr. at 319:21-325:12.

7. Nora did not file the list of issues by June 29, 2012 as directed by the court. Instead, on June 27, 2012, she filed an "Affidavit of Nonreceipt of Motion for Proposed Order and Final Order." Ex. 1:4 (CCAP Item 43); Ex. 13; Tr. at 325:13-326:6.

8. Nora testified she filed the June 27, 2012 affidavit with a motion dated June 28, 2012, for an extension of time to file the list of issues (Tr. at 348:4-20), but the CCAP record and court record index show these as separate filings. Ex. 1:4-5; Ex. 2:3.

9. In her June 27, 2012 affidavit, Nora stated that she had reviewed the CCAP record, that she was "shocked to find that an Order was entered in these proceedings on June 12, 2012," and that she had not been served with a motion seeking entry of an order after the May 23, 2009 hearing. Ex. 13:2, ¶¶ 3, 4.

10. In her June 27 affidavit, Nora stated that she "needed the order for the deadline of June 28, 2012" (Ex. 13:2, ¶ 9), referring to her obligation to file and serve the list of issues by the June 29, 2012 deadline. Tr. at 337:4-17.

11. Nora's June 27 affidavit contains no satisfactory explanation how entry of an order she said she had not seen affected her obligation to file the list of issues. Ex. 13.

12. In her June 27 affidavit, Nora stated that the court's clerk told her that the Gray Firm had sent the order and a letter to Judge Potter. Ex. 13:2, ¶¶ 10-12.

13. Nora made no effort to contact the Gray Firm to obtain a copy of what had been sent to the court. Tr. at 338:17-340:2.

14. In her June 27 affidavit, Nora described the Gray Firm's conduct regarding the order as an "ex parte communication with the Court." Ex. 13:3, ¶¶13-16.

15. In her June 27 affidavit, Nora stated that she was considering the possibility of "moving to disqualify Judge Potter for ex parte communications with GRAY & ASSOCIATES, L.L.P." Ex. 13:4, ¶ 17.e.

16. The June 28, 2012 motion filed by Nora states that Spencer seeks "the Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte Communications and Entering Ex Parte Orders in These Proceedings." Ex. 14:1.

17. In her June 28 motion, Nora refers to the Spencer proceeding as a "mockery of justice" (*Id.*, 14:2, ¶ 1) and as "these misbegotten proceedings" (*Id.*, 14:2, ¶ 3).

18. In her June 28 motion, Nora stated that on June 27, 2012, she received from her client copies of a letter to the court dated May 25, 2012 and a signed order filed June 12, 2012 (*Id.*, 14:3, ¶ 8). Nora acknowledged that Exhibit 10 was a copy of the letter and Exhibit 12 was a copy of the order referred to in her June 28 motion and in her June 27 affidavit. Tr. at 360:3-363:1.

19. The letter of transmittal dated May 25, 2012 and proposed order shows a carbon copy to Nora. Ex. 10:1. Nora could not explain how Judge Potter would have known that the Gray Firm had not sent her a copy of the letter and proposed order or that she had not received a copy of the letter and proposed order. Tr. at 364:11-25.

20. In her June 28 motion, Nora stated that "[t]his is not the first instance of ex parte communications leading to orders being entered by Judge Gregory J. Potter. Ex. 14:4, ¶ 22. Nora

referred to three purported prior instances: a filing on March 31, 2010 (Ex. 14:4-5, ¶23.a.), (2) a pair of letters dated February 17, 2011 (*Id.*, ¶¶ 23.c. and 23.d.); and a motion to vacate a summary judgment dated June 17, 2011 (*Id.*, ¶ 23.e.).

21. In her June 28 motion, Nora referred to the "recent ex parte order" as "another example of the improper practices in these proceedings." *Id.*, ¶ 24.

22. In her June 28 motion, Nora stated that "the secret proceedings held in this matter constitute a miscarriage of justice and that those practices continued in the ex parte order changing the substance of the Court's order entered on the record of the proceedings on May 23, 2012." Ex. 14:6, ¶26.

23. In her June 28 motion, Nora stated that "[a] reasonable inference arises from these facts that Judge Gregory J. Potter has colluded with GRAY & ASSOCIATES, LLP to circumvent proper practice and procedure by engaging in and facilitating ex parte communications by which orders have been entered by the court." *Id.*, ¶ 31.

24. Nora demanded that Judge Potter recuse himself based on SCR 60.04(4)(g), which generally proscribes ex parte communications, and SCR 60.04(e), which states that "[a] judge shall perform judicial duties without bias or prejudice." Ex. 14:7-8, ¶ 37.

25. Nora had no personal knowledge as to the alleged ex parte communications prior to her appearance in the case. Her knowledge was limited to what was shown in the court record and what others told her. Tr. at 31:11-17.

26. As to the alleged March 31, 2010 ex parte communication, an affidavit of a Gray Firm employee shows that on that date Spencer was served a copy of a Notice of Motion and Motion filed with the court on April 5, 2010. Ex. 15; Tr. at 418:17-419:9.

27. As to the alleged February 17, 2011 ex parte communication, the court record shows that the letter to the court cancelling a hearing was copied to Sheila Spencer. Ex. 16; Tr. at 368:16-369:6.

28. As to the alleged June 20, 2011 ex parte communication, the court record shows that the letter to the court filing a petition and order to vacate the judgment was copied to Sheila Spencer. Ex. 18; Tr. at 370:3-371:1.

29. On June 23, 2012, Nora filed a "Notice of Continuing Objection to Further Proceedings." The Notice seeks "Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte Communications and Entering Ex Parte Order [sic.] in these Proceedings" Ex. 19:1; Tr. at 379:19-381:7.

30. On June 25, 2012, Nora filed an "Amended Notice of Continuing Objection to Further Proceedings." Ex. 20; Tr. at 404:6-16. The only difference between the Notice and the Amended Notice is that the name of Attorney Timothy Mark Brovold of the Gray Firm appears in paragraph 4 of the Amended Notice. Tr. at 407:19-414:3.

31. In her "Continuing Objection," Nora alleged that the Gray Firm had made "multiple fraudulent filings" in the case. Ex. 20:3, ¶ 7; Tr. at 389:2-5.

32. In her "Continuing Objection," Nora stated that the alleged non-service of the proposed order entered on June 12, 2012 was part of "an actual pattern and practice by Judge Potter and [the Gray Firm], acting in concert, to effectuate a fraudulent foreclosure against Sheila M. Spencer and her home." Ex. 20:4, ¶ 8; Tr. at 389:6-16.

33. In her "Continuing Objection," Nora stated that the "ex parte order should never have been considered for signing by Judge Potter and now the entire record of the proceedings must be

reviewed in the light of apparent collaboration between Judge Potter and [the Gray Firm]." Ex. 20:6, ¶ 11; Tr. at 390:3-14.

34. In her "Continuing Objection," Nora stated the Gray Firm had engaged in "conniving to procure the June 12, 2012 ex parte order of Judge Potter to reverse what it perceived as a loss on the record of the May 23, 2012 proceedings." Ex. 20:6, ¶ 12; Tr. at 390:20-391:1.

35. In her "Continuing Objection," Nora stated that a complete review of the record was required "in light of apparent collaboration between Judge Potter and the lawyers from [the Gray Firm]." Ex. 20:6, ¶ 13; Tr. at 391:2-7.

36. In her "Continuing Objection," Nora stated that:

Whereas it was first thought that Judge Potter was confused and was, as a result of pride, unable to admit to his confusion, it is now clear that Judge Potter is not confused but is actually participating in a manipulation of the proceedings to deny Sheila M. Spencer the opportunity to be heard in defense of her rights to her home.

Ex. 20:6, ¶ 14; Tr. at 391:8-17 (emphasis added).

37. In her "Continuing Objection," Nora stated that:

The manipulation of the Transcript to remove some of the most damning evidence of bias ... discloses a whole new issue: that Judge Potter is complicit in the manipulation of the proceedings and of the record.

Ex. 20:6, ¶ 15; Tr. at 391:18-392:5 (emphasis added).

38. In her "Continuing Objection," Nora stated that "the 'civil filings' clerk was participating in the scheme to deprive this counsel of copies of documents which she did not receive." Ex. 20:6, ¶ 16; Tr. at 392:6-12.

39. In her "Continuing Objection," Nora stated that Judge Potter had not removed himself from the case "because he is now being shown to be actively assisting" the Gray Firm. Ex. 20:7, ¶ 18; Tr. at 393:6-394:17.

40. In her "Continuing Objection," Nora referred to Judge Potter as being "[complicit in the long and convoluted proceedings whereby false documents and ex parte proceedings are the modus operandi of Gray & Associates, LLP supported by Judge Potter." Ex. 20:7, ¶ 19; Tr. at 394:18-24.

41. Although Nora testified that she did not accuse Judge Potter of "turning a blind eye to crimes committed within the court process itself" (Tr. at 402:14-403:1), in her Continuing Objection Nora stated that:

Civil courts cannot be subverted by allowing crimes to go undetected by its officers, including Judge Potter and Sheila M. Spencer's counsel, and Judge Potter and counsel for Sheila M. Spencer cannot turn a blind eye to crimes to be committed within the court process itself. Ex. 20:8, ¶ 25; Tr. at 402:14-403:1.

42. In her "Continuing Objection," Nora stated that "Judge Potter has not seen fit to recuse himself yet from these proceedings even after being exposed for ex parte communications and having presided over proceedings which bear no resemblance to proper, neutral court proceedings." Ex. 20:9, ¶ 32; Tr. at 403:2-10.

43. In her "Continuing Objection," Nora stated that Judge Potter "has continued to interfere with the just and proper administration of Wood County Circuit Court." Ex. 20:9, ¶ 34; Tr. at 403:11-16.

44. In her "Continuing Objection," Nora stated that Judge Potter "has clearly disqualified himself by his knowing complicity in the miscarriage of justice represented by the proceedings in

this case, through ex parte orders and manipulations of the proceedings to do the bidding of [the Gray Firm]." Ex. 20:9, ¶ 35; Tr. at 403:17-404:4.

45. After hearing on August 8, 2012, Judge Potter denied Nora's motion seeking his disqualification in the Spencer case. Ex. 21; Ex. 309; Tr. at 414:9-416:18.

46. On August 13, 2012, Nora filed the list of issues as directed by the court at the May 23, 2012 hearing. Ex. 7A; Tr. at 417:7-14.

47. In the list of issues, Nora repeats her allegations about ex parte communications between the Gray Firm and Judge Potter made in her June 27 "Affidavit of Non-Receipt," in the June 28 motion seeking recusal of Judge Potter, and in the original and amended "Continuing Objection," she had filed in the Spencer matter. Ex. 7A:6-10, ¶ 29; Exs. 13, 14, 19, 20; Tr. at 418:3-420:13.

48. On October 3, 2012, Attorney James Carrig first appeared for the plaintiff in the Spencer matter. Ex. 1:7 (Item 71); Tr. at 11:11-16.

49. On October 29, 2012, Carrig filed a notice of appearance for the plaintiff in the Spencer matter. Ex. 1:7 (Item 72); Tr. at 11:18-12:2.

50. In response, Nora filed a motion to strike Carrig's notice of appearance. Ex. 1:7 (Item 74); Tr. at 12:3-24.

51. On December 5, 2012, the court conducted a hearing relative to Nora's objection to Carrig's appearance and to whether PNC Bank was a proper party to the Spencer case. Ex. 1:8 (Item 80); Tr. at 15:12-17:10.

52. On December 13, 2012, Carrig filed a motion to ratify the action or to substitute PNC Bank as the party plaintiff. Ex. 1:8 (Items 81-83); Tr. at 17:12-18:14.

53. On December 21, 2012, Nora filed a response to Carrig's motion to ratify or substitute PNC Bank as the plaintiff. Ex. 1:9 (Items 88, 89); Tr. at 17:12-18:14.

54. After hearing on December 21, 2012, Judge Potter granted the motion Carrig filed for PNC Bank and set a hearing date of March 18, 2013 for the pending motion for summary judgment. Ex. 1:8 (Item 86); Tr. at 20:4-21:20.

55. On January 10, 2013, Nora filed a notice of removal of the Spencer case to the United States District Court for the Western District of Wisconsin. Ex. 23; Tr. at 22:1-13.

56. Prior to removing the case to federal court, Nora did not file anything with the state court with respect to an entity referred to as "Freddie Mac." Tr. at 26:4-7.

57. Nora's notice of removal asserted that the Spencer case was removable under 28 USC secs. 1331, 1332, 1334 and 1349. Ex. 23:2.

58. On February 8, 2013, Carrig filed a motion on behalf of PNC Bank to remand the Spencer case to state court. Ex. 3:2; Ex. 24; Tr. at 26:20-28:20.

59. On March 4, 2013, Nora filed a brief opposing PNC Bank's motion to remand the Spencer case. Ex. 3:3; Ex. 25; Tr. at 28:21-29:23.

60. On March 25, 2013, United States District Court Judge Barbara Crabb issued an Opinion and Order granting PNC Bank's motion to remand and granting PNC Bank attorney fees and costs. Ex. 26; Tr. at 29:24-30:9.

61. On April 5, 2013, Carrig filed an itemized request for fees and costs for PNC Bank. Ex. 27; Tr. at 30:10-31:3.

62. On April 8, 2013, Nora filed a motion for reconsideration of Judge Crabb's March 25, 2013 Opinion and Order. Ex. 28; Tr. at 31:3-14.

63. Although she testified she did not file a motion for reconsideration of the remand order and only sought reconsideration of the award of attorney fees (Tr. at 689:13-690:8), forty-one of the forty-three numbered paragraphs of Nora's motion for reconsideration are devoted to asserting that Judge Crabb erred in remanding the Spencer case to state court. Ex. 28; Ex. 39:3.

64. The motion for reconsideration "requests that the court reconsider the Order remanding this case to state court entered on March 25, 2013 for its clear errors of law in failing to acknowledge and exercise its original jurisdiction" Ex. 28:8.

65. The motion for reconsideration was not limited to addressing the award of attorney fees and costs to PNC Bank. Ex. 28.

66. On April 15, 2013, Carrig filed a brief for PNC Bank opposing Nora's motion for reconsideration. Ex. 3:3 (Entry 19); Tr. at 32:6-17.

67. On April 15, 2013, Nora filed an Objection to Award of Attorneys' Fees and Reply on Motion for Reconsideration. Ex. 20; Tr. at 31:15-25.

68. In her reply, Nora sought reconsideration of the decision to remand and asserted that "the remand is appealable as decided on grounds other than those set forth in 28 USC sec. 1447(c)." Ex. 29:6 (para. 18).

69. On May 23, 2013, Judge Crabb issued an Opinion and Order denying the motion for reconsideration, characterizing the motion for reconsideration as "frivolous," and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 30:1, 7.

70. In the May 23, 2013 Opinion and Order, Judge Crabb held that the court lacked jurisdiction to reconsider the remand order. Ex. 30:2.

71. In the May 23, 2013 Opinion and Order, Judge Crabb held that because Spencer "did not have an objectively reasonable argument supporting federal jurisdiction, it is appropriate to award plaintiff fees incurred in its motion to remand." Ex. 30:6.

72. On June 7, 2013, Nora filed a second motion for reconsideration of the award of attorney fees. Ex. 31; Tr. at 33:7-18.

73. In the second motion for reconsideration, Nora stated:

This Court determined that Ms. Spencer did not have the right to seek reconsideration of the Court's Order remanding the case to the state foreclosure court entered on March 25, 2013 because the Court remanded the case under 28 USC sec. 1447(c) and is not appealable under 28 USC sec. 1447(d). The Court is wrong. On reconsideration it clearly elucidated that a part of its remand is based on abstention, as it had implied in the remand order.

Ex. 31:1 (emphasis added).

74. The second motion for reconsideration rehashes the same arguments Nora had asserted in her notice of removal. Exs. 23, 31.

75. On July 2, 2013, Judge Crabb issued an Opinion and Order denying the second motion for reconsideration and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 32; Tr. at 33:19-34:5.

76. On July 10, 2013, the United States District Court for the Western District of Wisconsin entered a judgment awarding \$875 to PNC Bank for costs and fees incurred in opposing the first motion for reconsideration. Ex. 33; Tr. at 34:6-20.

77. On July 10, 2013, Nora filed a notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013. Ex. 34; Tr. at 34:21-35:1.

78. In the notice of appeal, Nora identified herself as a defendant-appellant "individually and in her capacity as counsel for Sheila M. Spencer." Ex. 34.

79. Nora filed nothing with the court seeking to be made a party to the case prior to filing the notice of appeal. Tr. at 35:2-9; Ex. 3.

80. Nora knew that remand orders were not appealable under Title 28 of the United States Code. Tr. at 693:20-25.

81. On July 30, 2013, the United States District Court for the Western District of Wisconsin entered an amended judgment awarding \$4,928.47 to PNC Bank for costs and fees incurred in opposing the removal. Ex. 35; Tr. at 35:12-36:1.

82. On July 31, 2013, Nora filed an amended notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013 and the judgment and the amended judgment entered by the Western District on July 10 and July 30, 2013, respectively. Ex. 36; Tr. at 36:2-13.

83. In the amended notice of appeal, Nora identified herself as a defendant-appellant "individually and in her capacity as counsel for Sheila M. Spencer." Ex. 36.

84. Nora filed nothing with the court seeking to be made a party to the case prior to filing the amended notice of appeal. Tr. at 36:11-13.

85. On July 31, 2013, the United States Court of Appeals for the Seventh Circuit issued an order directing Nora and Spencer to file a memorandum stating why the appeal should not be dismissed for lack of jurisdiction. Ex. 4:3 (Entry 2).

86. On August 14, 2013, Nora filed a Jurisdictional Memorandum with the Seventh Circuit asserting that she had "the right and indeed the obligation to appear in her individual name and capacity as an aggrieved party." Ex. 37:2.

87. In her Jurisdictional Memorandum, Nora stated that "Judge Crabb has engaged in a campaign of libel against Nora which will be addressed to the appropriate fora." Ex. 37:3.

88. In her Jurisdictional Memorandum, Nora stated she was the real party in interest on the appeal because she was the "target" of the sanctions and she was "ethically required" to indemnify Spencer for the award of attorney fees and costs. Ex. 37:5.

89. On August 23 and September 10, 2013, Carrig filed memoranda for PNC Bank addressing jurisdiction as required by the Seventh Circuit. Ex. 4:3 (Entries 5-8); Tr. at 40:15-41:3.

90. Briefing on the Spencer appeal was delayed from October 23, 2013 to March 10, 2014, by reason of Nora filing a bankruptcy proceeding for Spencer. Ex. 43-4 (Entries 14-23); Tr. at 439:11-16.

91. After briefing and oral argument, on August 13, 2014, the Seventh Circuit issued its decision in the Spencer appeal. Ex. 4:4-5 (Entries 24-55); Ex. 39.

92. The Seventh Circuit dismissed Nora's appeal because she lacked standing to appeal, affirmed the district court's award of costs and attorney fees against Spencer because "there was no objectively reasonable basis for federal jurisdiction or removal," concluded the appeal was "frivolous," and ordered Nora to show cause "why she should not be sanctioned for pursuing this frivolous appeal." Ex. 39:3-4.

93. On August 15, 2014, Nora filed an initial response to the Seventh Circuit's order to show cause and asserted that "there are numerous factual findings which are not supported by any

evidence in the record, for which judicial notice was not properly taken and which are offered to be proved to be clearly erroneous." Ex. 40:2; Tr. at 45:1-18.

94. Nora's "Initial Response" rehashes the same arguments she had advanced in the notice of removal, in the briefs she had filed with the district court, and in the jurisdictional memorandum. Exs. 23, 25, 28, 31, 37, 40.

95. In her "Initial Response," Nora asserted that Judge Crabb had removed the seal from her medical records in a matter arising out of her personal bankruptcy case (*In Re Nora*, No. 10-3131) and that "it was nonetheless libelous for Judge Crabb to do so." Ex. 40:6, 11; Tr. at 451:23-452:12.

96. Nora acknowledged that Exhibit 55 was a copy of the decision where Judge Crabb had removed the seal from her medical records. Tr. at 455:3-6.

97. Nora asserted that Judge Crabb was in contempt of an order of the Seventh Circuit when she removed the seal from the medical records. Ex. 54:1; Tr. at 456:7-16.

98. The basis for Judge Crabb removing the seal from Nora's medical records was that Nora did not file the documents under seal under a prior protective order and that Nora did not move to have the documents sealed until she brought a motion for contempt against opposing counsel in her bankruptcy case. Ex. 55:4.

99. On August 20, 2014, the Seventh Circuit issued an order directing that Nora file "one proper response" (Ex. 41:1) to the order to show cause addressing four issues, as follows:

1. Whether her removal of this case to federal court, the first motion to reconsider the removal, and the appeal of the order awarding fees and costs were frivolous;

2. Whether her appeal of the district court's award on her own behalf was frivolous, where she was not a party and the district court did not order her to pay anything;

3. Whether the removal of this case to federal court and this appeal were litigated for improper purposes, in particular, to unnecessarily delay the proceedings and to increase the cost of this litigation to her opponents; and

4. Whether the accusations she has leveled against her opponents and the courts during this case, including the comments described in this court's opinion, were appropriate advocacy.

Ex. 41:2 (citations omitted); Tr. at 41:20-42:12.

100. On September 2, 2014, Nora filed a petition for rehearing en banc before the Seventh Circuit rehashing all of the same arguments previously made in her filings in the Spencer case. Exs. 23, 25, 28, 31, 37, 40, 42; Tr. at 46:13-58:18.

101. On September 16, 2014, the Seventh Circuit denied the petition for rehearing en banc. Ex. 43; Tr. at 58:19-59:8.

102. On September 19, 2014, Nora filed a motion to stay proceedings before the Seventh Circuit in order to provide her an opportunity to file a petition for a writ of certiorari with the United States Supreme Court. Ex. 44; Tr. at 59:9-23.

103. Nora never filed a petition for a writ of certiorari. Tr. at 464:21-466:25.

104. On September 19, 2014, Nora filed what was captioned a "Partial Response to Order to Show Cause" issued by the Seventh Circuit. Ex. 45; Tr. at 475:17-476:7.

105. In her "Partial Response," Nora denied that she had accused the state court judge and court reporter in the Spencer case of "fraudulently manipulating transcripts." Ex. 45:7; Tr. at 483:5-17.

106. In her "Partial Response," Nora stated that "it is the courts themselves which are causing the undersigned's clients and millions of others to despair and lose faith in the courts." Ex. 45:11; Tr. at 486:15-21.

107. In her "Partial Response," Nora stated:

By treating the undersigned as an enemy of the courts ... courts in this circuit are violating the first paragraph of the Preamble of the Standards of Conduct Within the Seventh Circuit by attempting to punish the vigorous defense of homeowners.

Ex. 45:11; Tr. at 486:22-487:8.

108. In her "Partial Response," Nora refused to withdraw her accusation that opposing counsel had engaged in civil fraud and racketeering. Ex. 45:12; Tr. at 490:3-20.

109. In her "Partial Response," Nora stated, "The bias of this panel and many of the judges in this circuit against homeowners' rights to be heard and defend their homes is apparent in every disputed sentence of the 'findings' in the panel's decision." Ex. 45:13; Tr. at 491:1-8.

110. In her "Partial Response," Nora characterized a number of statements in the court's opinion on the Spencer appeal as "false." Ex. 45:13-14; Tr. at 491:9-493:4.

111. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had accused the Judge Potter, PNC's lawyers, and the court clerk of colluding to conceal the contents of a court order and that she had demanded that Judge Potter recuse himself. Ex. 45:15; Tr. at 495:4-24.

112. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had accused the court reporter of intentionally manipulating a hearing transcript at Judge Potter's direction. Ex. 45:15; Tr. at 498:10-499:10.

113. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had moved to strike an opposing attorney's appearance because the case caption improperly identified PNC as a party. Ex. 45:16; Tr. at 499:24-501:13.

114. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that in December 2012 the state court scheduled a summary judgment hearing for next March. Ex. 45:16.

115. In her "Partial Response," Nora repeated her assertion that Judge Crabb was "engaging in a campaign of libel" against her. Ex. 45:7.

116. On October 2, 2014, the Seventh Circuit entered an order awarding PNC Bank \$25,295.00 for attorney fees and \$349.67 for costs. Ex. 46; Tr. at 503:14-504:24.

117. On October 3, 2014, Nora filed a letter of supplementary authority relative to the order to show cause. Ex. 47; Tr. at 504:25-505:8.

118. On October 17, 2014, Nora filed a motion to continue the show cause hearing for medical reasons. Ex. 48; Tr. at 505:9-24.

119. On October 21, 2014, the Seventh Circuit entered an order denying Nora's motion for a continuance but allowing her to appear by speakerphone. Ex. 49; Tr. at 505:25-506:14. On October 28, 2014, Nora appeared in person for the hearing. Ex. 50:3.

120. On February 11, 2015, the Seventh Circuit sanctioned Nora the sum of \$2,500 for frivolous and needlessly antagonistic filings. Ex. 50:4; Tr. at 506:15-23.

121. The Seventh Circuit's opinion states that contrary to its direction that Nora limit herself to "one proper response to the show-cause order ... Nora did not limit herself to one proper response." Ex. 50:2.

122. The Seventh Circuit's opinion describes Nora's petition for rehearing en banc as "rehashing her frivolous appellate arguments." *Id.*

123. The Seventh Circuit's opinion states that "[i]n responding to our earlier opinion, Nora has dug in her heels and continues to press the same arguments that were thoroughly rejected in the district court and our earlier opinion." Ex. 50:3.

124. In addressing its concerns about Nora engaging in "conduct unbecoming a member of the court's bar," the Seventh Circuit stated that:

Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions.

Ex. 50:3 (emphasis added).

125. On March 10, 2014, prior to filing her responses to the order to show cause, Nora had filed an amended second motion to disqualify Judge Potter and argued the motion on March 19, 2014. Ex. 1:16-17 (Items 163-72); Tr. at 123:25-125:25.

126. At the March 19, 2014 hearing, Judge Potter denied the second motion to disqualify and granted PNC's motion for summary judgment. Ex. 1 (Item 172); Ex. 51; Tr. at 64:13-65:5.

127. On August 20, 2014, the Wood County Circuit Court entered a written order granting judgment of foreclosure and sale to PNC Bank in the Spencer matter, denying the second motion to disqualify Judge Potter, and dismissing Spencer's counterclaim. Ex. 1 (Item 186); Ex. 51; Tr. at 64:13-65:5.

128. A sheriff's sale was conducted in the Spencer matter and the sale was confirmed by the Wood County Circuit Court. Tr. at 65:17-21.

129. Nora filed appeals for Spencer from the judgment of foreclosure and sale and from the confirmation of sale. Tr. at 65:14-24.

130. By opinions issued May 16, 2016, the Wisconsin Court of Appeals affirmed the judgment of foreclosure and sale and the confirmation of sale entered by the Wood County Circuit Court. Exs. 52, 53; Tr. at 65:25-66:17.

131. None of the attorney fees and costs awarded by the Seventh Circuit and by Judge Crabb in the Spencer matter have been paid. Tr. at 60:17-81:2.

**REGARDING RINALDI
(OLR MATTER NO. 2015MA614)
COUNTS 4-5**

132. On February 3, 2009, HSBC Bank USA ("HSBC") filed an action in the Circuit Court for Kenosha County against Roger and Desa Rinaldi relative to a note and mortgage executed by Roger Rinaldi, Case No. 2009CV353. *See* Ex. 57:1 (Item 1); Ex. 302; Tr. at 181:15-184:4, 517:14-25.

133. In Case No. 2009CV353, the court granted judgment of foreclosure and sale in favor of HSBC and dismissed the Rinaldis' counterclaims. Ex. 57:7-8 (Items 65, 73, 43); Tr. at 183:21-186:5.

134. After the Rinaldis' motion for reconsideration was denied, the judgment was vacated and case dismissed based on a loan modification agreement with the Rinaldis. Ex. 57:11 (Items 95-98); Tr. at 186:7-188:15.

135. On June 10, 2011, the Rinaldis commenced a lawsuit in the Circuit Court for Kenosha County, Case No. 2011CV1477 against, among others, Wells Fargo Bank, N.A. ("Wells Fargo") and the Gray Firm. Ex. 58:1; Tr. at 188:16-190:9.

136. Nora first appeared for the Rinaldis in Case No. 2011CV1477 by filing a notice of appearance on August 30, 2011. Ex. 58:3 (Item 29); Tr. at 190:14-22.

137. Motions to dismiss filed by certain defendants were pending when Nora first appeared in the case. Ex. 58:2 (Item 16); Tr. at 191:23-192:4.

138. On September 7, 2011, Nora filed a motion to dismiss without prejudice on behalf of the Rinaldis. Ex. 58:4 (Item 30); Tr. at 192:6-193:6.

139. The motions to dismiss were not heard by the court due to a bankruptcy filing made by the Rinaldis on October 14, 2011. Ex. 58:2 (Item 41); Tr. at 193:8-21.

140. Nora appeared for the Rinaldis in their bankruptcy case. On June 14, 2012, Nora filed an objection to the proof of claim filed by HSBC relative to the Rinaldi note and mortgage. Ex. 59:16-17 (Entry 77); Ex. 65:3.

141. On June 17, 2012, Nora filed an adversary proceeding on behalf of the Rinaldis asserting fraud and racketeering claims against, among others, HSBC, Wells Fargo, the Gray Firm and certain of its lawyers, and the law firm of Litchfield Cavo and Attorney Markvart, a Litchfield attorney who had appeared for Wells Fargo in Case No. 2011CV1477. Ex. 60:1; Tr. at 193:16-197:1, 197:22-198:9.

142. In challenging a proof of claim filed by HSBC, Nora asserted:

... objections to the claim includ[ing] that the Note lacks consideration; two mortgage assignments are null and void; another mortgage assignment is a forgery or unenforceable because it was not

recorded or perfected prior to bankruptcy; HSBC is not the owner or holder of the Note; and the Note image attached to the claim was fabricated to deceive the Court. Along with disallowance of the claim and the security represented by the Mortgage, the Debtors seek a determination that the proof of claim is false, fraudulent and unlawful.

Ex. 65:5.

143. In the adversary proceeding, Nora asserted claims against the defendant banks and their counsel, including common law fraud, abuse of legal process and violations of the Fair Debt Collections Practices Act ("FDCPA"), violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), breach of contract and tortious interference with prospective economic opportunity. Ex. 65:5.

144. On February 22, 2013, Bankruptcy Judge Susan Kelley issued a decision relative to the Rinaldis' objection to the proof of claim and defendants' motions to dismiss the adversary proceeding. Ex. 65:3-4; Tr. at 198:10-17, 203:3-21.

145. Judge Kelley rejected the Rinaldis' objections to HSBC's proof of claim, including objections predicated on an allegation that defendants produced a "forged endorsement to the mortgage note robo-stamped bearing the signature of Joan M. Mills to mislead this court into believing that the note had been timely, properly and authentically endorsed in blank after the commencement of [the foreclosure action]." Ex. 65:13-18.

146. Judge Kelley rejected Rinaldis' claims asserted in the adversary proceeding and recommended that the district court dismiss the claims. Ex. 65:18-33.

147. In rejecting the objections and claims asserted by Nora in the bankruptcy case and in the adversary proceeding, Judge Kelley characterized some of the arguments as frivolous (Ex. 65:13, 21) and preposterous (Ex. 65:29).

148. Nora filed an appeal from Judge Kelly's decision as to the objection to the proof of claim and an objection to Judge Kelley's recommendation in the adversary proceeding. The appeal and objection were consolidated and the matter was assigned to District Court Judge J. P. Stadtmueller. Ex. 61:4-5 (Entries 2, 5); Tr. at 196:16-197:8.

149. By order dated October 31, 2013, Judge Stadtmueller affirmed Judge Kelley's decision with respect to the proof of claim and adopted Judge Kelley's proposed findings of fact and conclusions of law regarding the adversary proceeding. Ex. 61:7 (Item 32); Ex. 66:20-21; Tr. at 203:22-204:12.

150. Judge Stadtmueller held that Nora failed to comply with the Federal Rules of Bankruptcy Procedure governing appeals. Ex. 66:8-10.

151. Judge Stadtmueller's opinion states that "debtors failed to provide a cogent statement of the issues on appeal and also provided briefs that are largely unintelligible" (Ex. 66:11) and describes the debtors' submissions as "an unfocused, stream-of-consciousness-style recitation of general grievances the debtors have asserted in various forms since the origination of this litigation in state court" (Ex. 66:14).

152. Judge Stadtmueller held that any issues as to the assignment of mortgages did not affect HSBC's rights as to the holder of the note. Ex. 66:12-13.

153. Regarding the Rinaldis' racketeering claim, Judge Stadtmueller held that Rinaldis had no injury in fact since they were still living in the residence and did not owe any money beyond that set forth in the mortgage which they agreed to pay. Ex. 66:15.

154. Judge Stadtmueller stated that debtors' activity "has quite obviously been vexatious and time-and resource-consuming; but, more concerning is the fact that their submissions to the Court are nigh-unintelligible." Ex. 66:19.

155. Judge Stadtmueller also stated that:

Seeing as the debtors' claims are generally meritless, the Court is concerned that the debtors are simply attempting to further stay the defendants' foreclosure of their home. In that case, the abuse of process charges alleged by the debtors against the defendants would actually lie much more appropriately against the plaintiffs.

Ex. 66:19-20.

156. Judge Stadtmueller also stated that:

The debtors are hereby warned, however, that they will find themselves in very deep trouble if additional meritless filings find their way to this Court (seeing as this Court has already had the responsibility of dealing with their all-but-frivolous filings in Case No. 12-CV-1065) and may very well result in significant sanctions.

Ex. 66:20.

157. On November 11, 2013, Nora filed a motion to amend or alter the findings of fact, conclusions of law and judgment entered by Judge Stadtmueller. Ex. 61:7 (Item 34); Ex. 67; Tr. at 204:13-25.

158. Nora's motion to alter or amend asserted the same kind of arguments that they had previously presented to Judge Kelley and Judge Stadtmueller addressing alleged fraud or forgeries in assignments of the Rinaldi mortgage, including the mortgage "purportedly endorsed by Joan M. Mills as Vice President of Wells Fargo." Ex. 67:2-4.

159. The banks and defendants in the adversary proceeding filed a response to the motion to amend or alter. Ex. 61:7 (Items 35, 36); Tr. at 205:1-12.

160. On December 13, 2013, Judge Stadtmueller entered an order denying the motion to amend or alter. Ex. 61:7 (Item 37); Ex. 68; Tr. at 205:13-23.

161. In the order denying the motion to amend or alter, Judge Stadtmueller stated that:

... the Rinaldis fail to identify any manifest error of law or fact, intervening change in law, or newly-discovered evidence that would entitle them to relief under Rule 59(e). ... Their arguments at this stage largely derive from perceived factual errors, which were not relevant to the Court's analysis and were not in error, and alleged legal errors, which are simply rehashings of the same meritless arguments raised before. The Court is, therefore, obliged to dismiss the Rinaldis' motion to amend.

With this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney.

Ex. 68:3 (citations omitted).

162. On December 23, 2013, Nora filed a notice of appeal of the orders entered by Judge Stadtmueller on October 31, 2013 and December 13, 2013. Ex. 61:7 (Entry 38); Ex. 69; Tr. at 205:24-206:7.

163. On February 11, 2014, Nora filed a motion to withdraw as Rinaldis' counsel in the Bankruptcy Court, the District Court and the Seventh Circuit. Ex. 59:30 (Entry 148); Ex. 61:8 (Entry 44); Ex. 62:4 (Entry 8); Ex. 72; Tr. at 206:8-207:10.

164. On March 4, 2014, Judge Kelley heard Nora's motion to withdraw in the bankruptcy case in conjunction with hearing a motion by the United States Trustee to dismiss the Rinaldis' bankruptcy case for failure to make payments. Ex. 59:30-31 (Entries 146, 153); Ex. 71; Tr. at 207:11-208:18.

165. In an oral ruling on March 4, 2014, Judge Kelley dismissed the bankruptcy case but retained jurisdiction over motions for sanctions filed by defendants in the Adversary Proceeding. Ex. 59:30-31 (Entries 153, 155); Ex. 71.

166. In an order entered March 5, 2014, Judge Kelley confirmed her oral ruling of March 4, 2014, and denied a motion for reconsideration Nora had filed with respect to Judge Kelley's opinion that dismissal of the case would moot the appeal Nora had filed for the Rinaldis. Ex. 59:30-31 (Entries 146, 154, 155); Exs. 70, 71.

167. Nora's motion for reconsideration in the bankruptcy case repeated the same arguments previously made based on an alleged "forged endorsement" and stated that "the Rinaldis have decided not to engage in litigation of their new issues in this Court and wish to be set free from the underlying bankruptcy" Ex. 70:2-3.

168. On April 2, 2014, Nora filed a motion to intervene personally in the Rinaldi case before Judge Stadtmueller. Ex. 61:9 (Entry 46); Ex. 73; Tr. at 209:9-210:3.

169. On April 2, 2014, Nora filed a joint motion for the Rinaldis and herself as the proposed intervenor in the case before Judge Stadtmueller seeking relief under Federal Rule of Civil Procedure 60 from the orders from the October 31 and December 13, 2013. Ex. 61:9 (Entry 47); Ex. 74; Tr. at 212:12-23.

170. In the motion to intervene, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 73.

171. In the motion to intervene, Nora asserted a right to intervene in order to defend the motions for sanctions filed by the banks and defendants in the adversary proceeding. Ex. 73:2, 15.

172. In the motion for relief under Rule 60, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 74.

173. By order dated April 9, 2014, Judge Stadtmueller granted Nora's motion to withdraw as counsel for the Rinaldis, but denied the motions to intervene and for relief under Rule 60. Ex. 75; Tr. at 213:13-17.

174. In the April 9, 2014 order, Judge Stadtmueller also stated that:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that "[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney." (Docket #37 at 3 (emphasis in original)). Despite that extremely clear warning, Ms. Nora filed the frivolous motions in question. Therefore, the Court will enter a sanctions award against her, using its inherent authority to do so under *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991). The Court will direct that Ms. Nora pay to the Clerk of the Court \$1,000.00 for deposit into the Eastern District of Wisconsin Pro Bono fund. And let the Court be clear: any further frivolous filings will result in even higher sanctions against Ms. Nora.

Ex. 75:2-3.

175. On appeal, the Seventh Circuit stated that "to the extent the adversary claims are not moot, we affirm the dismissal of those claims for substantially the reasons discussed by the district court." Ex. 76:3.

176. The Seventh Circuit also applied an exception to the general rule that mootness would of the appeal would deprive the lower court's rulings of preclusive effect where "losing party causes an appeal to become moot in order to avoid the preclusive effect of an unfavorable ruling." *Id.* The court added, "We refuse to indulge this type of gamesmanship by depriving the sound decisions of the bankruptcy court and district court of preclusive effect." Ex. 76:4.

177. The Seventh Circuit also affirmed the sanction awarded against Nora, stating that Nora's obligations to her clients did not excuse her disregard of the district court's clear and repeated warnings against continued submission of confusing, frivolous, and needlessly argumentative filings. *Id.*

CONCLUSIONS OF LAW

COUNT ONE

Nora was denied due process of the law as a result of OLR's failure to give her adequate notice of the misconduct with which she was charged in Count One. *In re Ruffalo*, 390 U.S. 544, 551, 88 S. Ct. 1222, 20 L.Ed.2d 117 (1968). In the second amended complaint, OLR only alleged Nora had violated SCR 20:3.1(a) in Count One. Nora did not have adequate notice, prior to the hearing in this matter, as to whether OLR was alleging she violated SCR 20:3.1(a)(1), SCR 20:3.1(a)(2), SCR 20:3.1(a)(3), or some combination of the three subsections of SCR 20:3.1(a). Each of the three subsections describe different misconduct and there are different burdens of proof associated with subsection (1) and (2) as compared to subsection (3).

COUNT TWO

By filing a frivolous appeal on behalf of her client and herself when she was not party to the litigation, and, by engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, **Nora violated SCR 20:3.2.**

COUNT THREE

By engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, **Nora violated SCR 40.15, enforceable via SCR 20:8.4(g).**

COUNT FOUR

Nora was denied due process of the law as a result of OLR's failure to give her adequate notice of the misconduct with which she was charged in Count Four. *In re Ruffalo*, 390 U.S. 544, 551, 88 S. Ct. 1222, 20 L.Ed.2d 117 (1968). In the second amended complaint, OLR only alleged Nora had violated SCR 20:3.1(a) in Count Four. Nora did not have adequate notice, prior to the hearing in this matter, as to whether OLR was alleging she violated SCR 20:3.1(a)(1), SCR 20:3.1(a)(2), SCR 20:3.1(a)(3), or some combination of the three subsections of SCR 20:3.1(a). Each of the three subsections describe different misconduct and there are different burdens of proof associated with subsection (1) and (2) as compared to subsection (3).

COUNT FIVE

In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, **Nora violated and SCR 20:3.2.**

DISCUSSION

I, as referee in this matter, first brought up the issue of due process as it relates to Count One and Count Four of the second amended complaint. As I began working on my report, and while I was reading OLR's initial post-hearing brief, I was at a loss as to what subsections of SCR 20:3.1(a) OLR claimed were violated by Nora in Count One. Essentially, OLR was arguing in their post-hearing brief that I should pick from the three subsections of SCR 20:3.1(a). OLR's brief was unclear as to

whether they sought a finding by me that Nora had violated one of the subsections, two of the subsections, or all three of the subsections. If I had to guess as to what subsections OLR claimed were violated, obviously Nora did not receive specific notice before the hearing in this case of the subsections allegedly violated. The same problem also exists as to Count Four.

It must be noted that the second amended complaint simply alleges violation(s) of SCR 20:3.1(a) in Counts One and Four. There is no reference to any subsections. There are three specific subsections to SCR 20:3.1(a). Prior case law has made clear that two of the subsections, (1) and (2), are subject to a subjective standard. *Disciplinary Proceedings Against Osicka*, 2009 WI 38, ¶ 42, 317 Wis. 2d 135, 765 N.W.2d 775. Also see, *Disciplinary Proceedings Against Lauer*, 108 Wis. 2d 746, 757-58, 324 N.W.2d 432 (1982); *Disciplinary Proceedings Against Bach*, 2016 WI 95, 372 Wis. 2d 187, 887 N.W.2d 335; and *Disciplinary Proceedings Against Widule*, 2003 WI 34, 261 Wis. 2d 45, 660 N.W.2d 686. The third subsection, (3), is subject to an objective standard. *Id.* Also, each of the three subsections describe different misconduct.

I asked both parties to submit supplemental post-hearing briefs relating to my due process concerns. In OLR's supplemental post-hearing briefs OLR argues, in relation to Count One, that OLR "alleged" violations of all three subsections of SCR 20:3.1(a). In relation to Count Four, OLR argues they "alleged" violations of SCR 20:3.1(a)(1) and (3). (*Complainant's Reply Brief Addressing Order Dated April 18, 2018 at 2.*) This is not correct. Nowhere in the second amended complaint did OLR make such allegations. They argue, for the first time in their supplemental post-hearing briefs, that particular subsections of SCR 20:3.1(a) were violated. However, post-hearing argument does not constitute proper notice of the alleged misconduct. In both instances, the second amended complaint shows that OLR merely alleged violations of SCR 20:3.1(a), without referring to any subsections.

I could assume that alleging violations of SCR 20:3.1(a), without any reference to the three subsections, is an allegation that all three subsections were violated. However, in relation to Count Four, OLR argues in their supplemental post-hearing briefs that only subsections one (1) and three (3) were violated by Nora. *Id.* In other words, when OLR alleged a violation of SCR 20:3.1(a) in Count One, they meant all three subsections were violated, but when OLR alleged a violation of SCR 20:3.1(a) in Count Four, they meant only subsections one (1) and three (3) were violated. Until OLR filed their supplemental post-hearing briefs, Nora had no notice of such positions.

Given the different standards of proof for each of the three subsections of SCR 20:3.1(a) and the different conduct which is the subject of each subsection, Nora had the right to know the specific subsections she was alleged to have violated when the second amendment complaint was filed. Due process requires such notice. Such notice was required before the disciplinary hearing began in this case and not when OLR first filed their supplemental post-hearing briefs. *In re Ruffalo*, 390 U.S. 544, 551, 88 S. Ct. 1222, 20 L.Ed.2d 117 (1968).

OLR argues that Nora could have determined the precise subsections she was “alleged” to have violated by conducting discovery. OLR also argues “notice pleading” should apply. However, it was not Nora’s obligation to determine the allegations against her by conducting discovery. While *Ruffalo* dealt with an additional count that was added after the disciplinary hearing had commenced, due process also requires that an attorney be given notice of the alleged misconduct by way of the complaint so that the attorney may prepare for the disciplinary hearing with full knowledge of the precise rules allegedly violated. *Id.*

I also dismiss OLR’s argument that Nora should have known the precise subsections she was alleged to have violated by statements made by the judges and tribunals before which she appeared

during the underlying cases. Again, Nora was not required to guess at the misconduct she allegedly committed based upon statements made by the various tribunals involved.

OLR further argues that they proved all of the necessary facts to support a finding that Nora, in relation to Count One, violated all three subsections of SCR 20:3.1(a), and subsections one (1) and three (3) of SCR 20:3.1(a), in relation to Count Four. I agree with OLR. The evidence is overwhelming and certainly constitutes clear, satisfactory, and convincing evidence that Nora violated all three subsections of SCR 20:3.1(a) in relation to Count One, and subsections one (1) and three (3) in relation to Count Four. However, the issue of proper notice still remains, despite such evidence. I further note that there was no motion to amend the pleadings to match the evidence and that this issue did not arise until final post-hearing briefs were filed and I began working on my report and recommendation.

I am mindful that my finding that OLR failed to give appropriate notice of its allegations in relation to Count One and Count Four of the second amended complaint carries a substantial impact in this long, complicated, and difficult case. It is only after considerable thought and research that I feel compelled to make such recommendations. In the event the Wisconsin Supreme Court does not agree with my findings and conclusions that Count One and Count Four must be dismissed on due process grounds, I do find and conclude, as stated above, that OLR has proven by clear, satisfactory, and convincing evidence that Nora violated all three subsections of SCR 20:3.1(a) in relation to Count One and subsections one (1) and three (3) of SCR 20:3.1(a), in relation to Count Four.

My recommendation that Counts One and Four be dismissed on due process grounds does not hamper my findings and conclusions in relation to the remaining counts. I am particularly

troubled by Nora's misconduct as found in Count Two and Count Three, in relation to harassment of other parties and judicial officers and personnel.

In their initial post-hearing brief, OLR cites the *Sommers* cases and compares the conduct in those cases with the misconduct in this case. *Disciplinary Proceedings Against Sommers (Sommers I')*, 2012 WI 33, 339 Wis. 2d 580, 811 N.W.2d 387 and *Disciplinary Proceedings Against Sommers ("Sommers II")*, 2014 WI 103, 358 Wis. 2d 248, 851 N.W.2d 458. OLR, in comparing the misconduct in the *Sommers* cases with the misconduct in this case notes that Nora's misconduct is far worse, given the frequency and offensiveness of her misconduct and attacks. However, I believe Nora's misconduct in this case is on a level all of its own. Nora's improper conduct was not limited to a particular case, court, or judge. It is clear that Nora generally practices law in a highly offensive and disrespectful fashion. Her idea of a defense is to delay the progress of the case by intentionally being offensive, disrespectful, and difficult. She has unfortunately learned that accusing judicial personnel and opposing counsel of misconduct, criminal acts, and racketeering goes a long way towards her goal of delaying the progress of any case in which she is involved. She has learned that the longer she can delay the foreclosure of a client's property, the better the job she is doing for her client.

She believes her accusations of misconduct against others is just part of a normal foreclosure defense and she sees nothing wrong with it. She believes in this defense strategy and believes she is right and others are wrong. She does not simply push to the outer boundaries of acceptable professional conduct, but uses shock and extreme accusations to cause delay. Nora believes in this sort of defensive conduct. She believes it is appropriate.

During the time this disciplinary case was before me and during the four (4) days of hearing in this case, I saw nothing which would lead me to believe Nora would not continue such misconduct if given the chance. She represents a serious and ongoing threat to the public, the judges before which she appears, opposing counsel and the legal profession. My research did not disclose any previous disciplinary cases in which an attorney was of the mindset of Nora. She justifies all of her misconduct on the basis that she is defending against foreclosure. She sees herself as a hero. She has not and will not change her thinking. She has no appreciation of the tremendous cost associated with her misconduct and the inappropriate charges she makes against members of the legal community.

In addressing its concerns about Nora engaging in "conduct unbecoming a member of the court's bar," the Seventh Circuit stated that:

Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions. Ex. 50:3 (emphasis added).³

Such misconduct is not limited to the Spencer and Rinaldi cases. The misconduct in Nora's reciprocal discipline matter, *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W.2d 99 (1993), was similar to the misconduct in this case. Nora's misconduct in the recently decided

³Statements and findings of misconduct by civil tribunals is not per se proof of misconduct in disciplinary cases, given the different burdens of proof in civil cases versus disciplinary cases. *Disciplinary Proceedings Against Osicka*, 2009 WI 38, ¶ 42, 317 Wis. 2d 135, 765 N.W.2d 775. My findings in this case are based on clear, satisfactory, and convincing evidence presented during the hearing in this case.

“Nora One” disciplinary case was similar in many ways to the misconduct in this case. *Disciplinary Proceedings Against Nora*, Supreme Court Case No. 2013AP653-D. There is a strong pattern of the same type of misconduct over a period of many years. Nora has not learned from her previous disciplinary matters and she has not shown any awareness of the seriousness of her misconduct.

After nearly two years of litigation before Judge Potter in Wood County, Judge Potter set a hearing date on the plaintiff’s pending motion for summary judgment. Shortly thereafter, Nora filed a notice of removal of the Spencer case to the United States District Court for the Western District of Wisconsin. This was a further delay tactic, given that Nora had run out of motions and accusations against Judge Potter in the Wood County court. After further briefs in relation to the issue of removal and remand, the United States District Court Judge Barbara Crabb remanded the case to state court and granted PNC Bank attorney fees and costs. In her briefs relating to the remand, Nora accused the plaintiff and its attorneys of engaging in “sham proceedings” against her client. Nora filed a motion for reconsideration of the remand order entered by Judge Crabb. After her first motion for reconsideration was denied, Nora filed a second motion for reconsideration of the remand order. Nora accused Judge Crabb of libel based upon orders Judge Crabb made in previous cases involving Nora.

Nora appealed the US District Courts’s order for remand and attorneys fees to the US Court of Appeals for the Seventh Circuit. Nora named herself as one of the appellants, despite the fact that Nora was not a party to the US District Court action. The Seventh Circuit found Nora’s appeal on behalf of herself and her client frivolous and imposed sanctions of \$2,500 against Nora. The sanction were suspended until the time, if ever, that Nora submitted further inappropriate filings.

In its August 20, 2014 order for a show cause hearing, the Seventh Circuit requested Nora respond to four specific issues and directed her to provide only one response. Rather than following the court's order, Nora submitted multiple responses to the order to show cause. She also repeated her accusations against PNC Bank and its attorneys of engaging in felony racketeering and wire fraud. Nora accused opposing counsel of fraudulently concealing the identity of the real party in interest and engaging in actionable civil fraud and racketeering that may constitute state and federal criminal misconduct. On October 2, 2014, the Seventh Circuit issued a final order directing Nora's client, Spencer, to pay the opposing party \$25,295.00 in attorneys fees and \$349.67 in costs.

On October 28, 2014, a show cause hearing was held before the Seventh Circuit. On February 11, 2015, the Seventh Circuit issued an order regarding the show cause hearing. In its order the court noted "Nora's conduct appeared to be part of a pattern of troubling litigation tactics." The Seventh Circuit also noted that Nora's response to her opponents and the courts during litigation were "unnecessarily accusatorial and antagonistic" noting that Nora had accused the state court judge and court reporter of fraudulent manipulation of transcripts and the District Court of pursuing a campaign of libel against her and opposing counsel of engaging in actionable civil fraud and racketeering.

In a February 11, 2015 order, the Seventh Circuit discussed sanctions against Nora. The court noted that Nora's arguments were made with no reasonable expectation of success and for the purpose of delay, harassment and sheer obstinacy. The circuit court noted that Nora has repeatedly acted with needless antagonism towards opposing counsel and judicial officers. They also noted that she refused to back down from her accusations of libel against Judge Crabb and her claims of actionable civil fraud and racketeering against opposing counsel. The Seventh Circuit also noted that

Nora, while denying accusing the state court judge of altering transcripts, the record of those proceedings showed otherwise.

The Spencer matter is most revealing in relation to Nora's violations of the alleged Supreme Court rules. It is clear that from the very beginning of her entrance into that case her goal was to delay a judgment of foreclosure as long as possible. Motions, allegations of impropriety against the court reporter, court staff, and judge were numerous. Nora knew her attacks against court personnel and Judge Potter would buy her more time. She accused the court reporter of altering the transcript of the hearing. She accused court personnel of not responding to requests for copies of court documents. She accused Judge Potter of numerous improprieties. He was accused of colluding with the plaintiff's law firm. He was accused of acting in concert with the law firm to effectuate a fraudulent foreclosure against Nora's client. He was accused of manipulating the proceeding to deny Nora's client the opportunity to be heard. He was accused of ex parte communications with the plaintiff's law firm. He was asked to disqualify himself from the case because of ex parte orders and manipulations of the proceedings in favor of the plaintiff's law firm.

Nora deliberately accused Judge Potter of serious improprieties knowing that it would delay the foreclosure proceeding. She knew her wild allegations needed to be resolved before the court could return to the merits of the case. Nora was well aware of the impropriety of her charges and accusations against Judge Potter, but she proceeded with them because it was delay at any cost. Nora actually believed such charges were appropriate as part of her defense. The goal was not to abide by appropriate professional boundaries, but to delay foreclosure of her client's home.

Unfortunately, Nora believes in her tactics. She believes she is a hero in taking on defense of foreclosure cases. She believes courts have no appreciation for her defense of foreclosure actions

and the tactics she uses. She believes her tactics are justified and proper as part of the defense of foreclosure actions.

Nora does not understand the difference between a vigorous and zealous defense in a foreclosure case and professional misconduct. There is nothing wrong with a zealous response to a foreclosure complaint. However, the many false accusations against Judge Potter during the course of the Spencer matter far exceed appropriate professional boundaries. It is totally inappropriate and violation of Supreme Court rules to make the charges and accusations against Judge Potter for the sole purpose of delay. It must be noted that Nora failed to substantiate any of her accusations against Judge Potter.

One must examine the costs to the parties, their lawyers, the judges involved, and the general public resulting from Nora's improper allegations. Every time Nora attacked opposing counsels and accused law firms of serious improprieties, they were forced to defend themselves. The motions, briefs, and arguments against such charges were costly. The research and briefing to defend against such charges was substantial. Nora has no appreciation of the unnecessary costs she imposes on her adversaries. She does not care about such costs. Assessing costs against her, as several of the judges did, have no effect on her, given that she has no intention of ever paying the costs imposed on her or her clients. It appears from the record and evidence produced during the hearing that none of the costs imposed by the various courts involved have ever been paid by Nora or her clients. Nora is most skilled at using the bankruptcy courts not only personally, but on behalf of her clients, to avoid the financial effects of her misconduct.

In recommending appropriate discipline for Nora's misconduct, I must assess and observe her current demeanor and thinking. She has no remorse for her conduct. She would not hesitate to

do things the same way if given a second chance. She sees her intellect as far exceeding that of her adversaries and the judges before which she appears. She sees her misconduct as justified by the way foreclosure attorneys and courts treat the “victims” of foreclosure actions. I see little chance that Nora will ever understand why her actions were wrong. I do not believe she will ever see how far she exceeded professional boundaries.

During the course of this disciplinary case, Nora has accused most if not all the attorneys representing OLR of serious professional misconduct, and in many cases criminal activities. She has accused many individuals involved in the preliminary investigations of her misconduct in this case of their own misconduct, biases, and sometimes criminal acts. This is not a case of paranoia, but rather deliberate “take no prisoner” thinking. I see little chance that Nora will ever accept the impropriety of her conduct and change.⁴

APPROPRIATE DISCIPLINE

The factors for consideration in imposing appropriate discipline for professional misconduct include: (1) the seriousness, nature and extent of the misconduct; (2) the level of discipline needed to protect the public, the courts and the legal system from repetition of the attorney’s misconduct; (3) the need to impress upon the attorney the seriousness of the misconduct; and (4) the need to deter other attorneys from committing similar misconduct. *In re Disciplinary Proceedings Against Hammis*, 2011 WI 3, ¶ 39, 331 Wis. 2d 19, 793 N.W.2d 884.

⁴In relation to all the allegations Nora made against judges, court personnel, OLR lawyers, staff, and investigators, opposing attorneys, banks, and others, I am unaware of Nora ever having proved any of her unsupported allegations of criminal activity, racketeering, fraud, libel or other misconduct. Other than wild accusations, Nora made no attempt to do so in this case.

Section 3.0 of the ABA Standards for Imposing Lawyer Sanctions, as amended in 1992, explains that courts should consider (1) the duty violated, (2) the lawyer's mental state, (3) the potential or actual injury caused by the lawyer's conduct, and (4) the existence of aggravating or mitigating factors. *In re Disciplinary Proceedings Against Grogan*, 2011 WI 7, ¶ 15, 331 Wis. 2d 341, 795 N.W.2d 745 (recognizing the ABA Standards as a guidepost).

OLR asks that I recommend a one-year suspension of Nora's license to practice law, consecutive to any other suspension Nora is serving, as appropriate discipline in this case. OLR correctly cites to the appropriate factors that I should consider in recommending discipline as found under Wisconsin law and under ABA Standards for imposing discipline, as referenced above.

In support of their request, OLR correctly notes that Nora was previously disciplined for similar conduct. They also correctly note that there is a pattern of similar misconduct. OLR also argues that Nora has made false and misleading statements during this disciplinary proceeding and has refused to acknowledge her wrongdoing. Noting that Nora has substantial experience in the practice of law, OLR also argues that Nora's conduct has knowingly caused harm to others and the legal system.

I accept all of OLR's arguments and positions. However, I do not agree with the recommendation of a one-year suspension. I further find that OLR's reliance on the *Widule* and *Sommers* cases to be inadequate in relation to appropriate discipline in this case. As the Wisconsin Supreme Court noted in the *Sommers* cases, those cases involved many complicating factors, making application of those cases to the current case very difficult. I do agree with OLR that Nora's misconduct in this case far exceeded the misconduct of Attorney Sommers, in terms of both frequency and offensiveness.

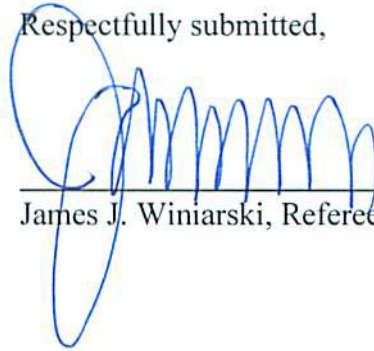
As I stated above, I believe Nora's misconduct is at a level all of its own, not previously seen in any Wisconsin disciplinary cases. Her attacks on judges, court personnel, opposing counsel and law firms, OLR staff and attorneys, and many individuals connected with the disciplinary committees of the State of Wisconsin is unprecedented. She is relentless in her attacks. She was, and continues to be willing to say and do anything to get her way. She has no understanding of the harm and damage she caused everyone she accused of misconduct and criminal activity. She repeated her misconduct and accusations throughout trial courts and appellate courts. She has never shown any remorse or understanding of the seriousness of her charges. She continued such conduct throughout this case, accusing opposing counsel and individuals on the staff of OLR of serious misconduct, including criminal misconduct. With a license to practice law, I have no doubt that Nora would continue her misconduct.

Attorney Nora represents a serious threat to the legal system and the public as a licensed attorney in the State of Wisconsin. Her misconduct in this case is most serious. The level of discipline needed to protect the public, the courts and the legal system from repetition of her misconduct is high. The need to impress upon Attorney Nora the seriousness of her misconduct is also high. While the need to deter other lawyers from committing such misconduct is a factor, I do not believe most lawyers in Wisconsin would ever think of engaging in the type of misconduct Attorney Nora committed in this case.

I recommend that the law license of Attorney Nora be suspended for two (2) years, consecutive to any current suspensions. Attorney Nora should be ordered to pay all of the costs of this disciplinary proceeding. I also recommend that reinstatement of her license be conditioned on good faith efforts by her to pay the tremendous costs incurred by OLR and the lawyers of Wisconsin in this disciplinary proceeding.

Dated at Milwaukee, Wisconsin, this 9th day of August, 2018.

Respectfully submitted,

A handwritten signature in blue ink, consisting of a large initial 'J' followed by several loops and a final 'n'.

James J. Winiarski, Referee

APPENDIX D

STATE OF WISCONSIN

IN SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST WENDY ALISON
NORA, ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,

CASE NO. 2015AP 2442-D

Complainant;

WENDY ALISON NORA,

Respondent.

RECEIVED

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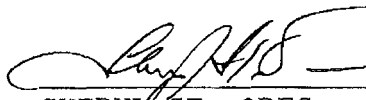
CLERK OF SUPREME COURT
OF WISCONSIN**ORDER TO ANSWER**

TO: Wendy Alison Nora
Access Legal Services
310 Fourth Avenue S, Suite 5010
Minneapolis, MN 55415-1053

YOU ARE HEREBY ORDERED to file with the Clerk of Court, Wisconsin Supreme Court, Post Office Box 1688, Madison, Wisconsin 53701, and to serve on the counsel for the Office of Lawyer Regulation, at the address below, an Answer to the Complaint of the Office of Lawyer Regulation, within twenty (20) days of the date upon which this Order to Answer and Complaint in this proceeding are served on you, and in the event of your failure to do so, discipline deemed by the Supreme Court to be appropriate will be imposed upon you.

Dated this 30th day of November, 2015.

OFFICE OF LAWYER REGULATION



SHERYL ST. ORES

Assistant Litigation Counsel
State Bar No. 1017028

110 East Main Street, Room 315
Madison, Wisconsin 53703-3383
Direct phone (608) 261-0695

STATE OF WISCONSIN

IN SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST WENDY ALISON
NORA, ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,
Complainant;

CASE NO. 2015AP²⁴⁴²D

WENDY ALISON NORA,
Respondent.

COMPLAINT

RECEIVED
NOV 30 2015
CLERK OF SUPREME COURT
OF WISCONSIN

NOW COMES the Wisconsin Supreme Court - Office of
Lawyer Regulation (OLR), by Assistant Litigation Counsel
Sheryl St. Ores, and alleges as follows:

1. OLR was established by the Wisconsin Supreme Court
and operates pursuant to Supreme Court rules. This Amended
Complaint is filed pursuant to SCR 22.11.

2. Respondent, Attorney Wendy Alison Nora (Nora), is a
Wisconsin attorney (State Bar No. 1017043) admitted to
practice law in 1975 whose office address is currently
listed with the State Bar of Wisconsin as Access Legal
Services, 310 Fourth Ave. S., Suite 5010, Minneapolis, MN
55415.

3. Nora's Wisconsin disciplinary history consists of a 30 day suspension as discipline reciprocal to that imposed by the Minnesota Supreme Court for misrepresentations, failing to adequately investigate, bringing a frivolous claim against a bank, inappropriate transfer of assets, and bringing litigation as a delay tactic while asserting a theory that was not justified by existing law. *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W.2d 99 (1993).

Regarding the Spencer Matter
OLR Matter No. 2014MA1570
Counts One - Three

4. In July 29, 2005, a mortgage note was issued in the amount of \$209,160 to Sheila Spencer (Spencer).

5. In 2008, Spencer failed to pay her mortgage.

• *Circuit Court: Judge Potter, Counsel, Staff*

6. In October 2008, PNC Bank filed a foreclosure action (Spencer foreclosure) against Spencer's property, the Honorable Gregory J. Potter (Judge Potter) presiding. *PNC Bank NA vs. Sheila M Spencer*, Wood County Case No. 2013TJ49.

7. In May 2012, Nora became successor counsel for Spencer.

8. Nora alleged the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme.

9. Nora argued the correct plaintiff holding the note was an issue before the court.

10. The court determined PNC Bank, N.A., was the correct party plaintiff.

11. Throughout the litigation, Nora accused opposing counsel of fraudulently concealing the identity of the real party interest and engaging in "actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct."

12. On May 23, 2012, the court held a scheduling conference, said hearing originally scheduled for summary judgment.

13. During the May 23, 2012 scheduling conference, the court stated Nora would need to provide a list of issues for summary judgment.

14. On May 25, 2012, plaintiff's counsel in the foreclosure action sent Judge Potter a letter and copied Nora enclosing a proposed order (proposed order) regarding the timeline for summary judgment issues.

15. Plaintiff's counsel's letter shows a copy of the proposed order was sent to Nora and he provided affidavits of mailing.

16. Judge Potter sent the parties via letter a signed order in which he acknowledged he converted the May 23, 2012 summary judgment hearing to a scheduling conference and provided a timeline for summary judgment issues.

17. Nora claims she never received Judge Potter's letter and final order.

18. Nora asserts there were *ex parte* communications by which plaintiff's counsel sent Judge Potter a letter with the proposed order and Judge Potter entered the order but did not send it to Nora.

19. Nora alleges there were three additional unlawful *ex parte* letter communications between Judge Potter and plaintiff's counsel: March 31, 2010, February 17, 2011, and June 20, 2011 letters.

20. An employee for plaintiff's attorney filed an affidavit in which she swore she sent the March 31, 2010 letter to Spencer.

21. The February 17, 2011 and June 20, 2011 letters indicate on their face a copy was sent to Spencer.

22. On June 28, 2012, Nora moved to have Judge Potter disqualified based upon the alleged *ex parte* communications.

23. Nora received the transcript of the May 23, 2012 hearing and discovered the third page was missing from the transcript.

24. Nora claimed there were certain word variances between the words used during the May 23, 2012 hearing and the words appearing in the transcripts, such as the word 'call me' was transcribed as 'contact me.'

25. Nearly all of the text of page three of the transcript consists of Nora giving Judge Potter a procedural and factual history of the case.

26. Page three of the transcript contains no orders, no dates, and no findings that would prejudice Nora or her client.

27. Nora claimed Judge Potter and the court clerk intentionally manipulated the court record.

28. Nora subsequently withdrew her objections related to the transcript page three and acknowledged there must have been a collating or processing error.

29. On July 23, 2012, Nora filed an amended motion demanding Judge Potter be disqualified based upon repeated *ex parte* communications and entering *ex parte* orders.

30. In the July 23, 2012 motion, Nora accused opposing counsel of conniving to procure *ex parte* orders, and,

accused the judge, opposing counsel, and court personnel of manipulating the record.

31. The court entered an order denying Nora's July 23, 2012 disqualification motion.

- *U.S. District Court: Judge Crabb*

32. On January 10, 2013, nearly four years after the Spencer foreclosure action commenced and while a summary judgment motion was pending in circuit court, Nora filed a motion to remove the case to the U.S. District Court for the Western District of Wisconsin, U.S. District Court Judge Barbara A. Crabb (Judge Crabb) presiding.

33. On February 8, 2013, the plaintiff moved to remand the Spencer foreclosure matter to state court.

34. Throughout her brief in response to the remand and other pleadings, Nora accused the plaintiff and its attorneys of engaging in a "sham proceeding" against her client.

35. In a March 25, 2013 order, Judge Crabb stated federal jurisdiction did not attach to the Spencer case and remanded the case to the Wood County Circuit Court.

36. On April 8, 2013, Nora filed a motion for reconsideration of the March 25, 2013 order objecting to attorney's fees.

37. Judge Crabb denied Nora's April 8, 2013 motion for reconsideration as frivolous because the matter had already been remanded, stated the Court lacked jurisdiction to reconsider its remand order, and ordered Spencer to pay attorney's fees.

38. Nora filed a second motion for reconsideration of the March 23, 2013 order, said motion summarily denied.

39. Nora accused Judge Crabb of libel based upon orders Judge Crabb made in previous cases involving Nora.

40. Judge Crabb's previous orders, in part, involved unsealing one of Nora's medical records during a matter in which Nora claimed her medical condition required additional extensions of time and other considerations by the court.

41. Nora alleged Judge Crabb's opening of the medical records was injurious to her reputation.

42. Nora has not alleged the medical records were untrue.

43. Nora's accusations of libel were intended to discredit a judiciary member while performing her duties.

44. In addition, Nora stated her accusations of libel against Judge Crabb related to the Judge making a statement that Nora's arguments were "lacking coherence."

45. Nora stated, "[T]he Respondent indeed stated that Judge Barbara A. Crabb has engaged in a campaign of libel against her."

- **U.S. Court of Appeals for the Seventh Circuit**

46. Nora appealed the U.S. District Court's order for remand and attorney's fees to the U.S. Court of Appeals for the 7th Circuit (7th Circuit).

47. In Nora's appeal to the 7th Circuit, Nora named herself as one of the appellants.

48. Nora was not a party to the U.S. District Court action.

49. The August 13, 2014, 7th Circuit's decision in Case No. 13-276:

- (a) found Nora's appeal on behalf of herself and Spencer frivolous.
- (b) imposed a sanction of \$2,500 against Nora noting, "We suspend this sanction, however, until the time, if ever, that Nora submits further inappropriate filings."
- (c) ordered Nora to show cause as to why she should not be sanctioned for the frivolous appeal.

PNC Bank, N.A. v. Spencer, 763 R.3 650, 655 (7th Cir. 2014).

50. In its August 20, 2014 order for a show cause hearing, the 7th Circuit requested Nora respond to four

specific issues and directed her to provide only one response.

51. In response to the August 20, 2014 show cause order, Nora submitted five separate responses as follows:

- (a) an August 27, 2014 petition for rehearing *en banc* on behalf of herself and Spencer, rehashing her frivolous appellate arguments;
- (b) a "partial response to order to show cause";
- (c) a September 19, 2014 separate motion to stay further proceedings pending a petition for writ of certiorari;
- (d) citation to additional authority; and,
- (e) eleven days before the show cause hearing a motion to postpone the hearing because of a mild injury she had sustained in a car accident.

52. Nora's order to show cause response repeated her accusations against PNC Bank, NA and its attorneys of engaging in felony racketeering and wire fraud, and further, Nora accused opposing counsel of fraudulently concealing the identity of the real party in interest and engaging in "actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct."

53. On September 16, 2014, the Court of Appeals denied Nora's August 27, 2014 petition for rehearing *en banc*.

54. On September 19, 2014, Nora filed a petition to stay the September 16, 2014 decision pending a writ of certiorari to the U.S. Supreme Court.

55. On October 2, 2014, the 7th Circuit issued a final order directing Nora's client, Spencer, to pay the opposing party \$25,295 in attorney's fees and \$349.67 in costs.

56. The October 2, 2014 7th Circuit order was silent on the issue of whether it would issue any additional sanction against Nora.

57. On October 3, 2014, Nora filed a 28-page decision from the 6th Circuit Court of Appeals, 13-3402, as supporting evidence for Nora's case.

58. On October 28, 2014, a show cause hearing was held.

59. On February 11, 2015, the 7th Circuit issued an order regarding the show cause hearing outlining the factual background as follows:

As discussed in our earlier opinion, this case arose from a Wisconsin foreclosure action in which Nora, retained by Sheila Spencer, raised numerous objections focused on alleging that PNC Bank was fraudulently attempting to foreclose. Nearly four years after the suit had been filed, Nora then removed the case to federal court on the basis that she had just discovered through internet research that Freddie Mac was the "real party in interest." The district court remanded the case to state court and awarded fees and costs to PNC, concluding that Nora failed to explain how federal jurisdiction could exist when Freddie Mac was not a party to the case. Nora moved for reconsideration, and the court denied the motion as "frivolous," noting that

Nora "ignored the voluminous law stating that district courts lack jurisdiction to reconsider remand orders, made no good faith argument for changing existing law and offered no meritorious arguments for reconsidering the decision to award fees." The court added that Nora had attempted "repeated procedural feints to delay the foreclosure that was properly before the state court."

Nora then appealed on behalf of both Spencer and herself, and we concluded that the appeal was sanctionably frivolous. We explained that Nora had "never presented any colorable basis for federal jurisdiction over this years-old state-court foreclosure case," leading us to "suspect that the removal was part of a strategy designed to gum up the progress of the case." *Spencer*, 763 F.3d at 655. We also observed that we lacked jurisdiction over Nora's appeal on her own behalf because liability for the award of fees and costs rested solely with Spencer; although Nora asserted that Judge Crabb had "engaged in a campaign of libel against [her]," this alleged criticism did not permit Nora to appeal. *Id.* at 653-54. Nora suggested at oral argument that she would withdraw her name as co-appellant but never did so. *Id.* at 654.

Further, we noted that Nora's conduct appeared to be part of a pattern of troubling litigation tactics... Additionally, we observed that Nora's responses to her opponents and the courts during this litigation were "unnecessarily accusatory and antagonistic," noting that Nora had accused "the state court judge and court reporter of fraudulently manipulating transcripts, the district judge of pursuing 'a campaign of libel against [her],' and opposing counsel of engaging in 'actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct.'" *Spencer*, 763 F.3d at 655 (alterations in original). We gave Nora 30 days to show cause why she should not be sanctioned.

Two days after we issued our opinion, Nora filed a 14-page "initial response" alleging that the

opinion did not provide her with reasonable notice of the charges against her. She requested an evidentiary hearing and appointment of "an attorney to represent the proponent of the Order to Show Cause and a referee or special master to preside at the hearing." We denied Nora's request for appointment of a special master and a full evidentiary hearing but agreed to hold a hearing on the show-cause order as allowed under Rule 46(c). We warned Nora that we would not accept additional filings beyond "one proper response to the show-cause order" and directed her to address the following four issues in her response: (1) whether the removal of this case, motion to reconsider, and appeal of the fee order were frivolous; (2) whether her appeal on her own behalf was frivolous; (3) whether the removal and appeal were litigated for the improper purposes of delay or increasing litigation costs; and (4) whether her attacks on her opponents and the district judge were appropriate advocacy.

Nora did not limit herself to one proper response. On September 2, 2014, she submitted a petition for rehearing *en banc* on behalf of herself and Spencer, rehashing her frivolous appellate arguments. On September 19, she filed both a "partial response to order to show cause (all rights reserved)" and a separate motion to stay further proceedings pending a petition for writ of certiorari. On October 3, after the court denied her request for a stay of proceedings, she filed a citation of additional authority under Circuit Rule 28(e) to bring to our attention a Sixth Circuit decision that purportedly supports her arguments on the merits. Finally, on October 17, eleven days before the show cause hearing, Nora moved to postpone the hearing because she had become "progressively mildly cognitively impaired as the result of a whiplash injury" from a car accident on September 13. We denied the request to postpone the hearing but granted Nora, or an attorney on her behalf, leave to argue by speakerphone. On October 28, Nora appeared in person for a 20-minute hearing.

In re Nora, 778 F.3 662 (7th Cir. 2015).

60. In its February 11, 2015 order, the 7th Circuit discussed whether sanctions would be appropriate:

Sanctions are warranted under Rule 38 when a litigant or attorney presents appellate arguments with no reasonable expectation of success for the purposes of delay, harassment, or sheer obstinacy. See *Wachovia Sec., LLC v. Loop Corp.*, 726 F.3d 899, 909-10 (7th Cir. 2013); *Hartz v. Friedman*, 919 F.2d 469, 475 (7th Cir. 1990); *Mays v. Chi. Sun-Times*, 865 F.2d 134, 138-39 (7th Cir. 1989). Nora's responses provide us with no persuasive reason to doubt that her arguments in this appeal were motivated by improper purposes....

Nora also fails to alleviate our concern about her engaging in "conduct unbecoming a member of the court's bar" under Rule 46(c). She contends that her comments during this litigation have amounted to nothing more than unsanctionable rudeness, citing *In re Snyder*, 472 U.S. 634 (1985). In *Snyder*, the Supreme Court concluded that a single ill-mannered letter did not rise to the level of "conduct inimical to the administration of justice" that is sanctionable under Rule 46(c). *Id.* at 645-47; see *In re Lightfoot*, 217 F.3d 914, 916-17 (7th Cir. 2000) (discussing this standard and collecting cases applying it). But Nora's conduct is more egregious than that in *Snyder*. As noted in our earlier opinion, Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions. See *In re Hendrix*, 986 F.2d 195, 201 (7th Cir. 1993)

(explaining that attorney's filing of submissions not grounded in law or fact is sanctionable); *Mays*, 865 F.2d at 140 (sanctioning attorney for falsely imputing positions on opponents and the court).

Nora suggested at her hearing that her problems represent a personal dispute with Judge Crabb, pointing out that the judge decided to unseal Nora's medical records in an appeal Nora filed in her own bankruptcy case. But Nora has failed to persuade us that the judge's actions amounted to anything more than adverse rulings against her. Cf. *Liteky v. United States*, 510 U.S. 540, 555 (1994) ("[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.")... When we questioned Nora about the lack of basis for her libel accusations at the hearing in this case, she proposed that she could substantiate her accusations if allowed to discuss them with us in chambers. There is no reason to believe that allowing Nora to disparage Judge Crabb in private would convince us that sanctions are inappropriate.

Id. Nora

COUNT ONE

61. By removing a state court foreclosure matter to the federal court after four years of litigation when there was no colorable basis for federal jurisdiction, and, by filing a frivolous motion to reconsider the order remanding the matter back to the state court, Nora violated SCR 20:3.1(a).¹

¹ SCR 20:3.1(a) provides: "In representing a client, a lawyer shall not: (1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law; (2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or (3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another."

COUNT TWO

62. By filing a frivolous appeal on behalf of her client and herself when she was not a party to the litigation, and, by engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 20:3.2.²

COUNT THREE

63. By engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 40.15 enforceable via SCR 20:8.4(g).³

Regarding the Rinaldi Matter
OLR Matter No. 2015MA614
Counts Four - Five

64. At all times herein, unless excepted, Nora represented the plaintiffs in their state foreclosure actions and all appeals. *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.* U.S. Dist. Court, Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and

² SCR 20:3.2 provides: "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client."

³ SCR 40.15 provides in relevant part: "I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land; ... I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged..."

SCR 20:8.4(g) provides: "It is professional misconduct for a lawyer to violate the attorney's oath."

13-CV-643-JPS (District Court), and, 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887 (Court of Appeals).

65. In 2005, Roger Rinaldi (Rinaldi) and his wife Desa (the Rinaldis) signed a note promising to repay a Wells Fargo mortgage loan.

66. Within four years, the Rinaldis defaulted on the loan and HSBC Bank USA, N.A. (HSBC) initiated a Wisconsin foreclosure action as assignee of the mortgage.

67. Nora counter-claimed against HSBC, Wells Fargo, and the lawyers involved in the foreclosure alleging that the mortgage paper-work produced by HSBC had been fraudulently altered and that HSBC lacked standing to enforce the mortgage.

68. The state court granted summary judgment against the Rinaldis and Nora did not appeal.

69. A year later the state court vacated its foreclosure judgment based upon HSBC agreeing to modify the loan rather than foreclose.

70. After the parties finalized the loan modification agreement, Nora filed a new state lawsuit (second state court matter), reasserting the Rinaldis' counterclaims against the same parties.

71. The defendants moved to dismiss the second state court matter.

72. Before the state court could rule on the dismissal motion in the second state court matter, Nora filed a 2011 bankruptcy action (bankruptcy matter) precipitating an automatic stay. *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A. , et al.*, U.S. Bankruptcy Court, Eastern District of Wisconsin, Case No. 11-35689-svk.

73. HSBC, holder of the Rinaldi mortgage, filed a proof of claim in the bankruptcy matter.

74. In June 2012, Nora objected to HSBC's bankruptcy proof of claim, filed adversary claims against the parties that she had counter-claimed against in the state action, and alleged fraud, abuse of process, tortious interference, breach of contract, and violations of RICO and the Fair Debt Collection Practices Act.

75.. On February 22, 2013, the bankruptcy court found in favor of HSBC's proof of claim and recommended denial of Nora's adversarial claims.

76. Nora appealed the February 22, 2013 bankruptcy court order.

77. On October 31, 2013, the District Court affirmed the bankruptcy court's orders on the proof of claim, adopted the bankruptcy court's recommendations on the adversary claims, and found as follows:

- (a) The court concluded that it did not even need to reach the merits of the proof-of-claim decision because the Rinaldis failed to designate the record or issues for appeal as required by the Federal Rules of Bankruptcy Procedure.
- (b) The court rejected the Rinaldis' appeal on the merits, explaining that HSBC had produced documents showing that it was entitled to enforce the mortgage.
- (c) The court dismissed each of the Rinaldis' adversary claims as meritless, noting that their submission of those claims was "an unfocused, stream-of-consciousness-style recitation of general grievances debtors have asserted in various forms since the origination of the litigation in state court."
- (d) The court warned the Rinaldis they would likely face sanctions if they filed additional frivolous filings because their litigation tactics had "quite obviously been vexatious and time-and resource-consuming" and their filings were "nigh-unintelligible."

78. Within two weeks of the October 2013 District Court's decision, Nora moved to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) and repeated her previously denied arguments related to the mortgage.

79. On December 13, 2013, the District Court decided Nora's Federal Rule of Civil Procedure 59(e) motion and stated as follows:

- (a) the arguments were meritless and "the Rinaldis, through their attorney Wendy Nora, have at every turn filed briefs that have

done little to clarify the matters under consideration while further confusing matters" (emphasis in original).

- (b) Nora's briefs were rambling, failed to comply with court rules, contained many spelling and grammatical errors, cited legal authority sparingly if at all, repeated rejected arguments, and used "irrelevant and argumentative language that has no place in a legal brief."
- (c) The court warned that "any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney" (emphasis in original).

80. In December 2013, Nora appealed the District Court ruling to the Court of Appeals.

81. In March 2014, Nora moved to dismiss the Rinaldis' 2011 bankruptcy action asserting she wished "to proceed to state court" with "newly discovered evidence" that the mortgage was void.

82. The bankruptcy court granted Nora's motion to dismiss, informing her that the dismissal might moot the Rinaldis' pending appeal.

83. Nora moved to withdraw as the Rinaldis' attorney in the District Court case.

84. Before the District Court ruled on Nora's motion to withdraw, Nora moved to intervene in the District Court case and demanded relief pursuant to Federal Rule of Civil Procedure 60(b).

85. On April 9, 2014, the District Court allowed Nora to withdraw.

86. On April 9, 2014, the District Court found Nora's motions to intervene and for relief from the District Court's prior orders pursuant to Rule 60(b)(2) of the Federal Rules of Civil Procedure to be frivolous and sanctioned Nora \$1,000, stating:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that '[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis'. (emphasis in original)

87. On behalf of the Rinaldis and herself, Nora appealed the District Court's order related to the Federal Rule of Civil Procedure 60(b) motion and the \$1,000 sanction for frivolous motion filing.

88. On February 11, 2015, the Court of Appeals affirmed the District Court's sanction order.

89. In ruling on Nora's appeal of her District Courts Federal Rule of Civil Procedure 60(b) motion and the subsequent \$1,000 sanction order, the Court of Appeals discussed whether sanctions were appropriate, stating:

Finally, we affirm the sanction order, which we review for an abuse of discretion. See *Tucker v. Williams*, 682 F.3d 654, 661 (7th Cir. 2012). Nora offers only a cursory defense for her actions,

maintaining that she did "nothing more than what she [was] required by law to do in the course of representing her clients." But Nora's obligations to her clients did not excuse her disregard of the district court's clear and repeated warnings against continued submission of confusing, frivolous, and needlessly argumentative filings. Thus, the court did not abuse its discretion by sanctioning Nora.

The orders of the district court are affirmed.

Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al., 778 F.3d 672, 672-675 (7th Cir., 2015) at 676.

COUNT FOUR

90. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated SCR 20:3.1(a).

COUNT FIVE

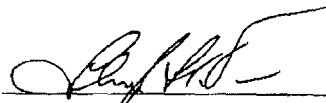
91. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-

JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated and SCR 20:3.2.

WHEREFORE, the Office of Lawyer Regulation asks that Attorney Wendy Alison Nora be found in violation of the Supreme Court rules as alleged in Counts One through Five of this Complaint, that the Court suspend Attorney Wendy Alison Nora's Wisconsin law license for a period of one year consecutive to and immediately following any suspension imposed upon Nora related to Supreme Court Case No. 2013AP653-D, and for such other and further relief as may be just and equitable, including an award of costs.

Dated this 30TH day of November 2015.

OFFICE OF LAWYER REGULATION



SHERYL ST. ORES
Assistant Litigation Counsel
State Bar No. 1017028

110 East Main Street, Room 315
Madison, Wisconsin 53703-3383
608-261-0695

APPENDIX E

STATE OF WISCONSIN

IN THE SUPREME COURT

In re the Matter of the Disciplinary Proceedings
 Against Wendy Alison Nora,
 Attorney at Law

Case Code: 30912

 Office of Lawyer Regulation,
 Complainant

Case No. 2015AP002442-D

v.

Wendy Alison Nora,
 Respondent

VERIFIED

JURISDICTIONAL OBJECTION AND
 NOTICE OF MOTION AND MOTION FOR A *FRANKS* HEARING TO DISMISS FOR LACK
 OF PROBABLE CAUSE; FURTHER OR ALTERNATIVE MOTION TO DISMISS
 FOR SELECTIVE AND VINDICTIVE PROSECUTION; AND FURTHER OR
 ALTERNATIVE MOTION TO DISMISS AS A SANCTION FO BAD FAITH INITIATION
 AND CONTINUATION OF THESE PROCEEDINGS AND THE COMPANION CASE
 IDENTIFIED HEREIN AS NORA #1

PLEASE TAKE NOTICE that the undersigned, appears specially, objects to these proceedings for lack of probable cause to initiate these proceedings, moves to dismiss these proceedings at a *Franks* hearing for lack of probable cause to initiate these proceedings; further or in the alternative, moves to dismiss these proceedings because they are brought as selective and vindictive prosecution of the Respondent; and, further or in the alternative, moves to dismiss these proceedings as a sanction for the bad faith initiation and continuation of these proceedings and the companion case identified herein as Nora #1. Hearing will be held before a qualified Referee to be appointed by this Court, at a time and place to be set by the Referee.

NOW COMES the Respondent, Wendy Alison Nora, by special appearance only, and

moves to dismiss the Complaint for lack of probable cause to initiate these proceedings, moves to dismiss these proceedings at a *Franks* hearing for lack of probable cause to initiate these proceedings; further or in the alternative, moves to dismiss these proceedings because they are brought as selective and vindictive prosecution of the Respondent; and, further or in the alternative, moves to dismiss these proceedings as a sanction for the bad faith initiation and continuation of these proceedings and the companion case identified herein as Nora #1. In support of these Motions, the Respondent shows the Court:

INTRODUCTION

The purpose of lawyer disciplinary proceedings to protect the public.

SCR 21 Preamble. The lawyer regulation system is established to carry out the supreme court's constitutional responsibility to supervise the practice of law and protect the public from misconduct by persons practicing law in Wisconsin.

History: Sup. Ct. Order No. 99-03, 2000 WI 106, 237 Wis. 2d xix. SCR:21.03(5)

If violations of the Wisconsin Rules of Professional Conduct are proved by clear and convincing evidence, a lawyer who has been fully and fairly allowed to be heard may punished by the a range of sanctions from private reprimand to disbarment, depending on the nature of the offense(s). Because lawyer disciplinary proceeding may result in punishment amounting forfeiture of some or all of a lifetime grant of the property right to practice the profession of law, lawyer disciplinary proceedings are quasi-criminal in nature. *In re Ruffalo*, 390 U.S. 544, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968).

Rather than face further miscarriages of justice which are more likely under the Wisconsin Code of Civil Procedure with which OLR's prosecutor and the Referee in Nora #1 were insufficiently versed to assure substantial justice as required by Wis. Stats. sec. 801.01(2), there is now a compelling need to adopt the United States Supreme Court's reasoning in *In re*

Ruffalo, supra, declare that OLR prosecutors are bound to the requirements of SCR 20:3.8(a)¹ and that lawyer disciplinary proceedings must, to the extent possible, provide the same level of due process protections as those accorded to criminal defendants. Indeed, in her disqualifying remarks, the Referee in Nora #1 compared Respondent to a criminal for the “fashion” in which she practices law² (Decision and Order of November 16, 2015, page 5). Respondent’s practice has involved some of the most crucial issues of the last decade and which go to the very core of the Rule of Law in this nation, which are issues of property rights arising under the Uniform Commercial Code and the Statute of Frauds. The “fashion” in which Respondent practices law is cannot be *presumed* to be unethical in lawyer disciplinary proceedings, as the Referee in Nora #1 has prejudicially written.

¹ Respondent informed Attorney Sheryl St. Ores that she should consider herself bound by SCR 20:8.3 at the inception of Nora #1.

² As if the Referee is qualified to judge issues with which she is almost completely unfamiliar having refused to consider Respondent’s Verified Motion to Dismiss the Amended Complaint and Answer to Count Two and the judicially noticeable documents submitted as not being in the record, which is obviously incorrect. OLR, on the other hand, is so unfamiliar with mortgage lending practices that it pleads a legal impossibility on paragraph 4. of the Complaint in this action, to wit, that Sheila M. Spencer received a loan by the issuance of a promissory note *to* Ms. Spencer. That allegation belies the almost total ignorance in which OLR cocoons itself to avoid its duty to investigate grievances involving false pleadings filed by some of the lawyers representing mortgage servicers, about which, more than seven (7) years in to the nationally notorious Foreclosure Crisis and more than five (5) years after the “robo-signing” scandal was first reported by national media outlets, even the most cursory review of homeowners’ grievances, would have at least required OLR to comprehend the basic elements of what purport to be mortgage loans. Most of Respondent’s clients know more about the elements of a traditional mortgage loan (which securitized loans are not) than that revealed by OLR in its paragraph 4. A simple reading of *Dow Family, LLC v. PHH Mortgage Corporation, et al.*, 2014 WI 56, 354 Wis. 2d 796, 848 N.W.2d 728, which Respondent presented to OLR as supplemental authority in Nora #1 prior to the hearing on Respondent’s involuntary summary judgment hearing (also admittedly ignored by the Referee, see Decision and Order of May 20, 2015, page 4) would at least have informed OLR of the two essential documents used constituting a traditional mortgage loan. *Dow Family*, supra, is, of course, case law precedent on the very subject of Counts Three and Four of Nora #1 and Counts One, Two, Three, Four and Five of Nora #2.

OLR should not be allowed to file charges based on false pleadings and force Respondent to answer. Respondent is a quasi-criminal defendant under *In re Ruffalo*, supra, at 551. That being incontrovertibly the case, Respondent is entitled to a hearing on probable cause under *Franks v. Delaware*, 438 U.S. 154, 165, 57 L.Ed.2d 667, 98 S.Ct. 2674 (1978), approved by the Wisconsin Supreme Court in *State v. Marshall*, 284 N.W.2d 592, 92 Wis.2d 101 (Wis., 1979) and *State v. Mann*, 367 N.W. 2d 209, 123 Wis. 2d 375 (Wis., 1985). A *Franks* hearing should be granted on a Motion which makes a preliminary showing that a false statement of fact has been deliberately knowingly and intentionally made or made with reckless disregard for the truth by the Complainant. *Franks v. Delaware*, 438 U.S. 154, 155-56; *State v. Mann*, 123 Wis.2d 385.

The Wisconsin Supreme Court has provided that the Wisconsin Rules of Civil Procedure shall apply to lawyer disciplinary proceedings throughout Chapter SCR 22. The proceedings initiated by formal complaint are to be heard before a Referee and SCR 22.16(1) provides, in part, “The rules of civil procedure and evidence shall be followed.” The Wisconsin Supreme Court could not reasonably have expected that the OLR would file a formal Complaint based on false facts, pleaded with knowledge of their falsity or with reckless disregard for the truth, which is what has occurred in this case. The Supreme Court would have no reason to anticipate that the panoply of due process rights available in the Wisconsin Rules of Civil Procedure would be inadequate to secure procedural due process and effect substantial justice, as provided at Wis. Stats. sec. 801.01(2), which provides:

(2) SCOPE. Chapters 801 to 847 govern procedure and practice in circuit courts of this state in all civil actions and special proceedings whether cognizable as cases at law, in equity or of statutory origin except where different procedure is prescribed by statute or rule. Chapters 801 to 847 shall be construed to secure the just, speedy and inexpensive determination of every action and proceeding.

As will shown herein, it is apparent that the Wisconsin Rules of Civil Procedure have not been followed in Nora #1. Respondent now seeks, in the interests of justice and for the protection of the public, that these quasi-criminal adversary proceedings in Nora #2 incorporate and adopt the constitutional due process of standards of criminal practice and permit her the opportunity to be heard on the falsehood of OLR's factual allegations and offers to show that the false allegations in the Complaint have been knowingly made by OLR or have been made with reckless disregard for the truth. It is in the interests of justice and to protect the right of the public to obtain legal representation against the far more powerful interests in the society that this Court preclude prosecutions initiated by OLR without *probable cause* when the Complaint filed by OLR can be shown to be materially false and the falsehoods pleaded in the Complaint were pleaded knowingly or with reckless disregard for the truth. Under the Wisconsin Rules of Civil Procedure, the allegations in a Complaint are presumed to be true at the initiation of the proceedings. Where, as here, the proceedings are quasi-criminal in nature, the presumption that factual allegations in a Complaint are true, must yield to the duty of the prosecutor not to make false factual contentions in an effort to establish probable cause for the proceedings.

It is respectfully submitted that a probable cause hearing should be included in lawyer disciplinary proceedings under the reasoning adopted by the United States Supreme Court in *Franks v. Delaware*, 438 U.S. 154, 155-156, 165, 171-172, 57 L.Ed.2d 667, 98 S.Ct. 2674 (1978), approved by the Wisconsin Supreme Court in *State v. Marshall*, 284 N.W.2d 592, 92 Wis.2d 101 (Wis., 1979) and *State v. Mann*, 367 N.W. 2d 209, 123 Wis. 2d 375. 385 (Wis., 1985). The Courts should consider providing a *Franks* hearing when a lawyer charged on false allegations with ethics violations, in order to establish probable cause for an OLR complaint, on

a preliminary showing that false statements of fact have been knowingly made or made with reckless disregard for the truth.

The procedure afforded by a *Franks* requested herein is essential to the protection of the Respondent's rights to not face false charges of ethical misconduct on false factual allegations made by OLR knowingly or with reckless disregard for the truth. Despite the protections established by the Supreme Court of Wisconsin in SCR Chapters 21 and 22, as well as the Wisconsin Rules of Civil Procedure, it is respectfully submitted that a *Franks* hearing to challenge false allegations should precede the requirement that the lawyer join issue, if the lawyer can meet the burden of the preliminary showing as established by *Franks v. Delaware*, *supra*, at 171-172.

[I]f, when material that is the subject of the alleged falsity or reckless disregard is set to one side, there remains sufficient content . . . to support a finding of probable cause, no hearing is required. On the other hand, if the remaining content is insufficient, the defendant is entitled, under the . . . to his hearing. Whether he will prevail at that hearing is, of course, another issue.

**OFFER OF PROOF OF FALSE FACTUAL ALLEGATIONS IN SUPPORT OF
REQUEST FOR *FRANKS* HEARING AND, IN THE ALTERNATIVE,
TO DISMISS FOR SELECTIVE AND VINDICTIVE PROSECUTION**

Respondent offers to prove the following facts at a *Franks* hearing duly requested to show that, absent OLR's false allegations, the remaining allegations of fact are insufficient to establish probable cause to believe that Respondent has violated the Wisconsin Code of Professional Conduct, or, in the alternative, that these proceedings have been commenced to selectively and vindictively prosecute the Respondent for conduct in which OLR and the grievants have engaged in these proceedings.

1. Since early 2011, OLR has subjected the Respondent to a draconian and time-

consuming series of investigations in an apparent effort to punish her for exercising her constitutional rights, calculated to interfere with her lawful representation of homeowners in the State of Wisconsin, and to silence her efforts to bring the legitimate, justiciable issue that some Wisconsin-licensed lawyers, representing mortgage servicers, have filed false pleadings, based on false documents, and supported by falsely sworn Affidavits in largely successful efforts to foreclose on Wisconsin real estate, which OLR and the grievants upon which it based the proceeding in entitled *OLR v. Nora*, Case No. 2013AP000653-D (hereinafter Nora #1) have persistently engaged.

2. OLR and its grievants do not have the privilege to violate the Wisconsin Code of Professional Conduct in order to initiate investigations and charge the Respondent with violations of the Wisconsin Code of Professional Conduct.

3. The first selective and vindictive disciplinary proceeding was commenced by the filing of a Complaint in Nora #1 without *probable cause* to believe that the Respondent had violated the Wisconsin Code of Professional Conduct.

4. Nora #1 was initiated on a grievance filed by one of her litigation opponents in a Dane County Circuit Court foreclosure action entitled *Residential Funding Company, LLC v. Nora, et al.*, Case No. 2009CV001096, Attorney David M. Potteiger (Potteiger) of BASS & MOGLOWSKY, S.C. (BASS), who had a personal motivation for filing the grievance, and who filed a grievance making multiple false allegations against the Respondent on the form provided by OLR, stating, “I certify that all information submitted herewith are true and correct to the best of my knowledge.” (Exhibit 1, page 1)

5. Potteiger was apparently retained as co-counsel with N. William Foshag of GRAY &

ASSOCIATES, LLP (GRAY) in Dane County Circuit Court Case No. 2009CV001096, replacing Arthur M. Moglowsky, but no formal appearance was ever made by Potteiger in Dane County Circuit Court Case No. 2009CV001096 (Exhibit 2).

6. Potteiger's grievance accused the Respondent of being unfit to practice law, based on confidential medical evidence, filed under seal in the United States District Court for the Western District of Wisconsin (the Western Wisconsin District Court), and to which BASS had access as a counsel for the opposing party.

7. Respondent filed confidential medical evidence in support of her Motion for Extension of Time to File Appellant's Brief in appeal from an Order Granting Relief from the Automatic Stay in Respondent's Chapter 11 Bankruptcy Case in the Western District of Wisconsin, while she was suffering from undiagnosed and untreated seizures.

8. Potteiger presented Respondent's confidential medical information to the OLR with the grievance he filed against the Respondent on December 10, 2010, stating "all information submitted herewith is true and correct," in which he made multiple, false representations to the OLR to support his assertion that the Respondent "proceeded under a calculated pattern of abusive and potentially illegal behavior." (Exhibit 1, page 3)

9. Potteiger, knowingly or recklessly, made the following false statements for the purpose of deploying the awesome power of the state, through the investigative and prosecutorial resources vested by the Wisconsin Supreme Court in OLR, to "take any and all actions necessary to curtail Ms. Nora from her present course of misconduct," because Respondent had initiated an action against him, BASS, his co-counsel Attorney N. William Foshag of GRAY & ASSOCIATES, LLP (GRAY) and certain members of the firms.

10. Potteiger sought to have OLR “curtail” Respondent’s litigation conduct because she had commenced an action in the United States District Court for the Western District of Wisconsin as Case No. 10-cv-748 on November 30, 2010. The Potteiger grievance was filed on December 8, 2010.

11. The Potteiger grievance made numerous false statements of fact and law, in two (2) categories. The first set of false statements in the Potteiger Grievance are categorized by Potteiger as “I. FORECLOSURE AND BANKRUPTCY” and contains subheading labelled “DELAY,” “MISREPRESENTATIONS” and “HARASSMENT AND EXTORTION” (Exhibit 1) and the second set of false statements in the Potteiger Grievance are categorized “II. MENTAL COMPETENCE.”

12. Potteiger’s first subcategory entitled DELAY contains the following false statements:

a. RFC claimed to be the ultimate assignee of the original mortgage lender, Aegis Mortgage Corporation (Aegis).

UNDISPUTED FACTS: Residential Funding Company, LLC (RFC) claimed to be the current **owner and holder** of a certain note, mortgage and temporary loan modification. It did not claim to be the “ultimate assignee” of the original mortgage lender, Aegis. There are no allegations in the foreclosure complaint that Aegis assigned the mortgage and loan modification agreement to RFC. (Exhibit 3)

The allegation that RFC was the **owner** of the note appearing to be endorsed in blank was proved to be false by Potteiger himself, when he mailed a copy of a Note appearing to have been specially endorsed in favor of Residential Funding Corporation, then from Residential Funding Corporation to JP Morgan Chase Bank as Trustee, to which an Allonge endorsing the Note in favor of RFC, purportedly signed by Amy Nelson, Assistant Vice President of The Bank of New

York Trust Company, as successor to JP Morgan Chase Bank as Trustee, Residential Funding Company, LLC fka Residential Funding Corporation, Attorney in Fact (Exhibit 4). Potteiger sent Exhibit 4 to the Respondent on June 17, 2009.

b. In “defense” of a routine Foreclosure, Ms. Nora submitted pleadings, motions, briefs and other papers, which are so grossly unconventional that a short account fails to do justice . . . Furthermore, Ms. Nora’s submissions are utterly devoid of proper form, evidentiary support, and legal authority. The Dane County Circuit Court has repeatedly been forced to admonish Ms. Nora:

UNDISPUTED FACTS: Respondent was never admonished by the Dane County Circuit Court in Case No. 2009CV001096. The legal definition of an admonishment is set forth below:

A reprimand directed by the court to an attorney appearing before it cautioning the attorney about the unacceptability of his or her conduct before the court. If the attorney continues to act in the same way, ignoring the admonition, the judge will find him or her in Contempt of court, punishable by a fine, imprisonment, or both. In criminal prosecution, before the court receives and records the plea of the accused, a statement made by a judge informing the accused on the effect and consequences of a plea of guilty to criminal charges.

Potteiger quotes the judge’s reasons for ruling against the Respondent on several motions and falsely asserts that Judge Colás statements were admonitions.

(1) JUDGE COLÁS: The court is not obligated to rummage through the jumble submitted by the defendant in lieu of a proper brief and supporting affidavits to construct arguments for her.

This statement appears in the March 3, 2010 Order Granting Summary Judgment and refers to submissions made in good faith while the Respondent was experiencing seizures and seeking ADA accommodations. Judge Colás also found the Respondent’s opposition to be late-filed, despite the fact that she had been literally unconscious on the earliest uncertain date upon which the summary judgment opposition would have been due. Respondent had earlier requested a scheduling order, including a firm date for hearing on summary judgment, which

Judge Colás denied.

(2) JUDGE COLÁS: Neither the motion to dismiss nor the brief in support of the motion were accompanied by supporting evidentiary affidavits, only by unauthenticated exhibits.

This statement was surprising because motions to dismiss in civil cases are not required to be supported by evidentiary affidavits. See Wis. Stats. sec. 802.06. See also Dane County Local Rule 108 which provides:

All motions must state with specificity the grounds and factual basis therefore. General assertions of violation of constitutional rights will not be considered specific. General assertions of insufficiency will not be considered specific. Such nonspecific motions may be denied sua sponte by the court with notice to the parties of such denial and with leave to renew the motions in a timely manner.

(3) JUDGE COLÁS: The motion does not cite any authority in support of its claim of an error of law and contains only conclusory allegations and contentions.

If a court makes an error of fact, it cannot apply the correct law. Respondent produced substantial evidence of fraud on the Court by Potteiger, on behalf of RFC. Respondent was not required to authenticate the false document purporting to be a copy of a Note suddenly appearing to be specially endorsed in favor of RFC, which contradicted the copy of the Note endorsed in blank that Foshag alleged was “true.”

(4) JUDGE COLÁS: Defendant’s claim of abusive or biased conduct by this court is a general complaint about the court’s rulings in this case, unsupported by any evidentiary affidavit or citation.

Again, see Dane County Local Rule 108.

c. Based on the foregoing, Potteiger then falsely states that Respondent had a desire to “unethically delay the Foreclosure and overwhelm the court’s docket with complete and total absurdity.”

As a matter of law, Respondent had the right to defend herself against the false claim that

RFC is the **owner and holder** of two versions of copies of Notes: (1) a copy of a Note endorsed in blank and an Assignment of Mortgage purporting to have been made on behalf of a bankrupt party and (2) a copy of a Note presented with special endorsements and an Allonge by Potteiger for the purpose of, as he stated to her by telephone, “to convince” her that RFC was entitled to proceed in the action. The Assignment of Mortgage and the specially endorsed Note with the Allonge are forgeries in violation of Wis. Stats. sec. 943.38 and Potteiger uttered the latter and transmitted it by mail for the purpose of defrauding Respondent of her property and rights.

13. The next set of false statements in the Potteiger Grievance are categorized by Potteiger as contains subheading labelled “MISREPRESENTATIONS” which Potteiger summarized as “Ms. Nora unabashedly made numerous false statements in both the Foreclosure and Bankruptcy, in order to induce dismissal or delay” contains the following false statements made knowingly or with reckless disregard for the truth, contrary to SCR 20:3.3(a)(1):

- a. On April 7, 2009, Ms. Nora moved to dismiss the Foreclosure, claiming Aegis was the “real party in interest.” Five years earlier Ms. Nora entered into a loan modification with Aegis’ assignee. Clearly, Ms. Nora knew Aegis no longer had an interest in the mortgage loan and was not a proper party to the Foreclosure.

UNDISPUTED FACTS: Exhibit 5 attached hereto is the April 7, 2009 Motion to Dismiss. Respondent was defending against the Foreclosure Complaint as being facially defective because the Assignment of Mortgage from Mortgage Electronic Registration Systems, Inc. to RFC was invalid. Potteiger recklessly asserted that Respondent knew Aegis no longer had an interest in the mortgage loan. Five years earlier, Respondent entered into a loan modification agreement with Homecomings Financial, Inc. (Homecomings), to whom she was making mortgage payments. She was informed by Attorney Michael M. Riley (Riley) of GRAY &

ASSOCIATES, LLP (GRAY) and she reasonably believed the Homecomings was acting as the servicing agent for Aegis.

Respondent was never charged with any misrepresentation pertaining to the April 7, 2009 Motion to Dismiss and her legal and factual position was justified by the evidence.

b. On August 25, 2009, RFC, in no uncertain terms, rejected Ms. Nora's counteroffer of settlement. That did not stop Ms. Nora from writing Judge Colas (sic), presiding judge, to inform the court that a settlement was reached which demanded a stay of the Foreclosure.

UNDISPUTED FACTS: Exhibit 6 is a true and correct copy of what Respondent sent to the Dane County Circuit Court via facsimile on August 26, 2009 (9:39 a.m.). In Nora #1, she took the position that she did not make a misrepresentation of fact or law in the facsimile transmission. To Respondent's surprise, the Referee in Nora #1, now known to be actually biased against the Respondent revealed by written remarks in a Decision and Order of November 16, 2015, found that Respondent had foreknowledge of Potteiger's contention that RFC has rejected the Loan Repayment Agreement into which she entered with GMAC Mortgage, LLC (GMACM). GMACM was the servicing agent which succeeded Homecomings in servicing the loan originated by Aegis because Respondent "must have received" an email purportedly sent on August 25, 2009 (4:20 p.m.), which Respondent has conclusively shown she never received by uncontroverted metadata.

OLR then retained an unsworn report from one Doug Erlick, which found only that the email upon which the Referee relied in finding "foreknowledge" (which is immaterial as a matter of law anyway because Potteiger was not representing GMACM) "was consistent with having been sent." Erlick, whose expertise has been challenged under the *Daubert* standard, did not

produce the metadata associated with the challenged Potteiger email, which is the only relevant evidence in support of the immaterial contention that Potteiger sent the email (or if so, to whom). Erlick, Potteiger and OLR failed to present the metadata which would have conclusively shown that Respondent did not receive the challenged email. OLR's insistence on maintaining the false position that Respondent had foreknowledge of Potteiger's legal position led to the creation and filing of Potteiger's false Affidavit of August 3, 2015. (Exhibit 7)

Potteiger's August 3, 2015 Affidavit falsely identifies Exhibits which purport to be screen prints from an unspecified earlier point in time to show that he saved the email he claims to have sent (again, this is immaterial to the foreknowledge of the Respondent, which is immaterial as a matter of law). The screen prints, which he falsely swears represents an archive of all of the emails he has sent since 2007 which do not display all of the emails he sent to Respondent during the time frame falsely displayed. The print screens produced as Exhibits can easily be shown to be false, not only because the email record independently created by Google, which provides email services to Respondent via gmail shows more email correspondence sent from Potteiger than his false print screen displays (Exhibit 8), but Potteiger's print screens conclusively show on their face to have been created no earlier than June 9, 2015. The print screen displays an open window on the bottom of the screen which is dated June 9, 2015 by visible title, in part, "6.9.2015.Larry.Affida. . ." which is a document titled by Respondent herself and is the Affidavit of her expert witness, Larry R. Wickstrom, executed by Mr. Wickstrom on June 5, 2015 and forwarded to OLR and the Referee on June 9, 2015 via email by Respondent herself.

Potteiger created and uttered forged evidence to be used against Respondent in Nora #1 as recently as August 3, 2015. Respondent offers to prove that he uttered the forgery purporting to

be an Allonge signed by Amy Nelson when he mailed it to Respondent on June 17, 2009. That the Amy Nelson Allonge is a forgery is not seriously in dispute. Potteiger failed to contradict that allegation in the Wisconsin Court of Appeals in *RFC v. Nora*, Appeal No. 2011AP000879, essentially arguing that Respondent had discovered the fact of the forgery too late.

c. On May 17, 2010, Ms. Nora wrote the United States Bankruptcy Court for the Western District of Wisconsin, Hon. Thomas Utschig, presiding, “on or about March 29, 2010, the Honorable C. William Foust appointed a guardian ad litem for me in guardianship proceedings last week.” Ms. Nora has yet to produce an Order to that effect and no guardian ad litem has ever appeared on Ms. Nora’s behalf.

Respondent did not misrepresent that a guardian ad litem was appointed for her in guardianship proceedings. Respondent filed for a temporary guardianship on or about March 29, 2010 and the Order was presented to OLR in the course of the investigation of Potteiger’s grievance. She requested that OLR maintain the Order Appointing Guardian Ad Litem in the confidential status provided under the auspices of the Dane County Probate Court. Potteiger recklessly accused Respondent of “unabashedly making” a false statement to Judge Utschig.

d. Finally, Ms. Nora claims to be disabled; yet Ms. Nora is perfectly capable of drafting hundreds of pages of documents in support of her dozens of requests for accommodations. Somehow Ms. Nora is only incapable of filing only that which is actually required by the Court. While I cannot attest to Ms. Nora’s physical impairment, when taken in conjunction with those instances of misrepresentation noted above, I fear Ms. Nora’s disability claims are a ruse intended to delay the proceedings.

Since none of the “instances of misrepresentation noted above” were misrepresentations by the Respondent, the recklessness disregard for the truth in Potteiger’s assertions at d. is apparent. But Potteiger does not just make false statements with knowledge or reckless disregard for the truth. He has created and uttered forged documents not only in the foreclosure action, but he also allowed or caused his firm to utter the forged Amy Nelson Allonge in Respondent’s

Bankruptcy. Furthermore, as a matter of law, it is Respondent's duty, when impaired, to seek extensions of time for her clients to obtain other counsel and to withdraw as counsel under SCR 20:1.16(a)(2) which accounts for Respondent's word-processed filings during the term of her total disability because she is a sole practitioner. As to her own litigation, she has a constitutional right to accommodations under the ADA. Potteiger accused Respondent of unethical conduct for acting ethically as to her client cases and acting lawfully and within her constitutionally-protected rights to petition the judiciary for redress of grievances and to due process of law (specifically recognized by the Americans with Disabilities Act as Amended effective January 1, 2009) and the Wisconsin Supreme Court.

The false allegation that Respondent was claiming to be disabled for the improper purpose of delaying the foreclosure action is perhaps the most destructive of all of Potteiger's falsehoods, because it was the basis for his use of confidential medical information which has been sealed in the United States District Court for the Western District of Wisconsin and in the United States Bankruptcy Court for the Western District of Wisconsin. The release of confidential medical information is the likely "cause" (but not probable cause) for the formal complaint in Nora #1. The District 9 Ethics Committee investigators refused to provide Respondent with an opportunity to contradict Potteiger's false statements, leading the District 9 Ethics Committee to refer charges to the Preliminary Review Committee (PRC) and resulting in the filing of Counts One, Two and Three in Nora #1 almost three (3) years after Respondent had finally been able to recover from the totally disabling afflictions for which she sought accommodations from January to June, 2010 (although she was still suffering from manageable health limitations into 2012).

14. The third subheading under the category of I. FORECLOSURE AND BANKRUPTCY is subsection C. entitled “HARASSMENT AND EXTORTION” (Exhibit 1) and contains the following false statements made knowingly or with reckless disregard for the truth, contrary to SCR 20:3.3(a)(1):

a. Potteiger recklessly asserted the false conclusion that Respondent “flagrantly harassed and intimidated opposing counsel and the court in an effort to prevent justice. Such conduct is despicable.”

On December 8, 2010, when Potteiger wrote his series of false statements in the grievance filed on December 10, 2010, he admits that he despises the actions taken by the Respondent, if not the Respondent herself. On November 30, 2010, Respondent had just filed Case No. 10-cv-748 entitled *Nora v. Residential Funding Company, LLC, et al.* She gave Potteiger fair warning of the crimes being committed in the foreclosure action and provided him with an opportunity to advise his client to cease and desist from the unlawful attempt to take her home, under a judgment procured on false pleadings, based on forged documents. At that time, GMACM had recently announced on or about September 29, 2010³ that it was staying its judicial foreclosure actions because of the “robo-signing” (forgery) of documents being presented in courts. Respondent knew that GMACM was the servicer of her mortgage and expected that Potteiger would know that GMACM had stayed its foreclosures in judicial foreclosure states because he was co-counsel with N. William Foshag (Foshag) of GRAY & ASSOCIATES, LLP (GRAY) and GRAY represented GMACM in the State of Wisconsin. It is not extortion to file a

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<http://www.propublica.org/blog/item/gmacs-robo-signers-draw-concerns-about-faulty-process-mistaken-foreclosures>

lawsuit in an effort to put an end to criminal conduct, actionable under the Racketeer Influenced and Corrupt Organizations Act (RICO) at 18 U.S.C. secs. 1961-1964, based on substantial evidence which Respondent has in her possession. Moreover, the same conduct is actionable under the Wisconsin Organized Crime Control Act (WOCCA) at Wis. Stats. secs. 946.80-946.88. Respondent chose federal jurisdiction in order to prosecute the rights of thousands of homeowners who were also victims of the RICO Enterprise.

b. Potteiger falsely specifies:

(1) First, Ms. Nora filed a preposterous grievance with the Office of Lawyer Regulation against Arthur M. Moglowsky . . . [when] Ms. Nora knew Aegis had no legal interest in the action.

It cannot possibly be extortion to file a grievance with OLR, based on information believed to be true and without seeking any financial, material or other personal gain. Filing a grievance, based on information believed to be true, is a constitutionally protected exercise of the grievant's (here, the Respondent's) First Amendment right to petition the government for redress of grievances, guaranteed by the *United States Constitution*, but, Respondent also understood at the time that it was her duty to do so under SCR 20:8.3. She was later advised by Tim Pierce, Ethics Adviser for the State Bar of Wisconsin, that an alternative to filing a grievance with OLR which fulfills a lawyer's duty under SCR 20:8.3, is to make a court aware of the other lawyer's conduct in violation of the Wisconsin Code of Professional Conduct. She has, thereafter, reasonably relied on Attorney Pierce's advice and has raised the issues of misconduct by lawyers representing mortgage servicers of other entities claiming interests in Wisconsin real estate to the courts involved in the actions in which the misconduct occurs. Aegis' mortgagee interest misrepresented by an Assignment of Mortgage, created by GRAY lawyer, Attorney Jay J. Pitner,

and was executed by Jeffrey Stephan and Kenneth Urgwuadu, who were exposed as robo-signers in 2010. (Exhibits 9 and 10)

(2) Second, because I advised RFC to reject Ms. Nora's counteroffer of settlement during the Foreclosure, Ms. Nora not only threatened to sue me for "tortious interference with contract, economic advantage and prospective economic advantage," she listed the claim as an item of personal property in her Bankruptcy.

Potteiger's legal position that there was a settlement offer or counteroffer is subject to review in Nora #1, along with the fact that Potteiger created and produced false evidence for OLR to use to support the Referee's clearly erroneous finding of fact that Respondent received an email from Potteiger on August 25, 2009 at 4:20 p.m. The Referee found that Respondent "must have received" the challenged email, which was supposed to have provided Respondent with notice that Potteiger had rejected a pretended settlement offer, when no settlement offer was ever made or countered. The Referee in Nora #1 found that Respondent had foreknowledge that her August 26, 2009 (9:39 a.m.) facsimile to the Dane County Circuit Court was a misrepresentation of fact or law in violation of SCR 20:3.3(a).

Respondent has consistently taken the position that the facsimile of August 26, 2009 was not a misrepresentation, but was a true and correct copy of the documents upon which she relied for her legal position that the foreclosure action was to be stayed for a period of 4 months. The contract Respondent sent by facsimile to the Dane County Circuit Court, had it ever been considered by the Court, was a temporary payment plan (TPP) under the Home Affordable Modification Program (HAMP) as part of the Troubled Asset Relief Program (TARP). Confronted with the uncontroverted metadata that Respondent did not receive Potteiger's challenged email of August 25, 2009 (4:20 p.m.), the Referee altered her finding of

misrepresentation on foreknowledge to failure to correct a misrepresentation, which is a post-judgment amendment of the charge in Count Two. Amending charges after disciplinary hearing (here, proceedings on OLR's oral motion for summary judgment on the date of the hearing) is exactly why the United States Supreme Court declared that Ruffalo's constitutional rights to due process were violated in *In re Ruffalo*, supra. The United States Supreme Court held, at 390 U.S. 551:

These are adversary proceedings of a quasi-criminal nature. Cf. *In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527. The charge must be known before the proceedings commence. They become a trap when, after they are underway, the charges are amended on the basis of testimony of the accused. He can then be given no opportunity to expunge the earlier statements and start afresh. fn4⁴

In this case, Respondent was found to have violated SCR 20:3.3(a), first, based on a prohibited negative inference from insubstantial suppositions. Then, in the face of false evidence created by OLR and Potteiger after OLR was confronted with overwhelming evidence of Respondent's nonreceipt of the challenged Potteiger email, the Referee amended her finding of the violation of SCR 20:3.3(a) from foreknowledge to the charge of failure to correct a misrepresentation. Without evidentiary hearing to resolve any remaining issues on the Respondent's Motion for Relief (as if uncontroverted metadata were not conclusive enough), the Referee amended her earlier conclusion that the Respondent had foreknowledge of Potteiger's

⁴ Footnote 4 in *In re Ruffalo*, supra, reads:

The Ohio State Bar Association and Mahoning County Bar Association, amici curiae in support of the order of the Court of Appeals, argue that there was no due process violation because the State Board gave petitioner several months to respond to charge No. 13. . . In this case, Respondent has been denied relief from the Referee's Decision and Order of May 20, 2015. It would be futile to seek relief from her Decision and Order of October 1, 2015 because the Referee proved herself to be actually biased by her remarks in the later Decision and Order dated November 16, 2015.

legal position, ignored the manifestly apparent false evidence presented by OLR in opposition to Respondent's Motion for Relief, and found that Respondent had a duty to correct a misrepresentation of law that Respondent never made.

Furthermore, it is not extortion to provide a pre-litigation warning to a prospective defendant and demand that the defendant cease engaging in illegal conduct. Because Respondent had a claim against Potteiger, which was ultimately settled in RFC's own Bankruptcy in the United States Bankruptcy Court for the Southern District, filed on May 14, 2012 as part of the consolidated case entitled *In re Residential Capital, LLC* (RESCAP) Case No. 12-12020 (Exhibit 11), she had a duty as a matter of law to list the asset of the contingent, unliquidated claim against Potteiger and others. Commencing a RICO action against alleged participants in a RICO ENTERPRISE, properly defined, for which there is sufficient evidence to support the factual allegations set forth in the Complaint, is not harassment of Potteiger, BASS, Foshag, GRAY, other lawyers in BASS and GRAY, and others named in Respondent's RICO Complaints, whose actions will be shown to have furthered the operation of the ENTERPRISE.

Potteiger's second assertion at subsection I. C. of his grievance (2) is not grounded in fact or law, and led to Potteiger's desperate creation of additional false evidence in his August 3, 2015 Affidavit in violation of SCR 20:3.3(a), SCR 3.4(b) and SCR 20:8.4(b) and (c) when the Referee erroneously relied on Respondent's alleged foreknowledge, which Respondent had contended was immaterial because she did not make a misrepresentation to the Dane County Circuit Court. OLR prosecutor, Attorney Sheryl St. Ores, then unconscionably produced Potteiger's false evidence knowingly or with reckless disregard for the truth in violation of SCR 20:3.3(a), SCR 3.4(b) and SCR 20:8.4(c) and as an apparent misprision of a felony in violation

of 18 U.S.C. sec. 4. This led to the failure of the Referee, Attorney Lisa C. Goldman, to follow the requirements of SCR 20:8.3 and 18 U.S.C. sec. 4 in Nora #1. The foregoing misconduct in the Nora #1 proceedings is substantial evidence in support of the *Franks* remedy. The Respondent should not be required to engage any further in disciplinary proceedings based on knowing or recklessly alleged false facts, but is constitutionally entitled to answer only to those allegations which are believed by OLR, on competent and diligent investigation, to be true. The United States Supreme Court explained in *Franks*, supra, at 438 U.S. 165:

This does not mean “truthful” in the sense that every fact recited . . . is necessarily correct . . . But surely it is to be “truthful” in the sense that the information put forth is believed or appropriately accepted by the affiant as true.

Here, the Complaint is not verified, but surely, the expectation is that the Complaint has been competently and diligently investigated and that it is believed in good faith by OLR to be true and pleaded in conformity with the Wisconsin Code of Professional Conduct. Respondent offers to show that the present Complaint has been filed based on 32 false facts, more than one third of the total allegations and several erroneous legal conclusions as will be shown below.

The next allegation Potteiger made in his grievance is that Respondent’s right to an impartial tribunal is absurd.

(3) Ms. Nora moved to disqualify Judge Colas (sic) for “actual bias.” Judge Colas (sic) has been a model of decorum and has shown far more leniency and restraint than one could expect. The charge is absurd.

Potteiger, who at the time he filed his grievance, had practiced law for just over three (3) years is hardly in a position to state what leniency and restraint “one” could expect. Respondent had a constitutional right to due process which includes an unbiased tribunal. Respondent had a good faith belief that Judge Colás was actually biased against her based on her disabled condition

and she was entitled to seek to have him disqualified.

It is not professional misconduct to move for disqualification of a judge based on “actual bias.” In a recent case in the State of Minnesota, Respondent argued a motion for the disqualification of a district court judge (equivalent to a Wisconsin circuit court judge), which had been initiated on a pro se motion. The Motion to Disqualify was denied. Minnesota Rules of General Practice provide for reconsideration of the denial of disqualification by the district court judge to the Chief Judge of the District, which was also denied. Thereafter, it was discovered that the court reporter for the district court judge prepared a transcript which was not a verbatim transcript and had altered the record of the proceedings. There is substantial evidence that the district court judge knew that the transcript had been altered. It was then recognized that other transcripts upon which the Respondent relied in representing her client in the action and the related disqualification proceeding had been altered, which prevented the full and fair review of the district court judge’s bias. A second motion to disqualify the district court judge was filed. The Chief Justice of the Minnesota Supreme Court intervened and ordered that a new judge be appointed to preside in the action. (Exhibit 12) Lawyers, as officers of the court, are required to seek disqualification of a judge for actual bias, if there is sufficient evidence which supports moving for the disqualification of a judge.

(4) Ms. Nora sued Judge Colas in federal court for actual and punitive damages, claiming “Defendant Colas is actively discriminating against the Plaintiff’s disabilities.” This is nothing more than disgraceful attack on a sitting judge.

Respondent never pleaded in the action before the United States District Court for the Western District of Wisconsin as Case No. 10-cv-709 that “Defendant Colas is actively discriminating against the Plaintiff’s disabilities.” Potteiger’s allegation is false and all that OLR

had to do to determine that the allegation was false was to read the Amended Complaint in Case No. 10-cv-709. Searching for words and phrases, Respondent retrieved Paragraph 58 from the Amended Complaint, which reads:

58. Plaintiff was in excruciating pain and began to realize that Defendant Colàs (sic) was discriminating against her in his administrative capacity because disability accommodations requests are an administrative, not a judicial function.

The issues in the federal court action revolved around whether or not Dane County Local Rule 114 was being properly applied. Respondent takes the position that providing ADA is an administrative function and that ADA accommodations cannot properly be treated as a judicial determination. The issue in the federal court action was whether ADA accommodations are administrative functions or judicial functions for purposes imposing personal liability on judicial officers. If ADA accommodations are an administrative function, *Forrester v. White*, 484 U.S. 219 (1988), judges are not immune from damages resulting from discrimination. Wisconsin still appears to be taking the position that ADA accommodations are a judicial determination, contrary to the assertion of OLR in the Complaint in Nora #1.

(5) Fifth, Ms. Nora actually used her frivolous lawsuit against Judge Colas as the basis for a second motion to recuse the judge.

In addition to believing in good faith that Judge Colás had discriminated against the Respondent based on her disabling condition by not granting her ADA accommodations to allow her to participate in the foreclosure action, Respondent believed in good faith that Judge Colás could not be impartial after the filing of the federal court action. She gave Judge Colás the opportunity to recuse himself by filing the second motion for disqualification after the federal action was commenced. In denying her motion, Judge Colás decided that he was not required to

recuse himself notwithstanding the federal action. Shortly thereafter Judge Colás granted the ADA accommodations which were minimally necessary to allow the Respondent to have equal access to the courts and the Clerk of Dane County Circuit Court filled the position of the ADA accommodations specialist, which had been vacant. Respondent's other request, that she and others similarly situated not be required to provide ADA accommodation requests in writing if they were incapable of doing so, was also established. The main purpose of the federal action having been accomplished, Respondent voluntarily dismissed the action.

(6) Sixth, Ms. Nora threatened suit against Bass & Moglowsky, S.C. on claims of racketeering, conspiracy, and fraud, if it did not cancel the sheriff's sale of her condominium. When Bass & Moglowsky, S.C. refused, Ms. Nora retaliated by suing it and others in federal court for actual and punitive damages exceeding \$10,000,000,000.00.

This is the true motivation for Potteiger's grievance. Potteiger's allegation set forth above is false. Respondent did not seek to have the court impose liability in the amount of \$10,000,000.00 on Potteiger, his law firm, other lawyers in his firm, Foshag, GRAY or other lawyers at GRAY, who were collectively referred to as the Wisconsin Foreclosure Mills.

Paragraph 9 of the Respondent's original request for relief reads:

9. Ordering joint and several liability against each and all of the members of the GMAC RACKETEERING ENTERPRISE, excluding AEGIS, but **limiting the liability of the Wisconsin Foreclosure Mills to Plaintiff's damages and share of punitive damages.**

The Complaint from which the foregoing paragraphs have been copied was sent to Potteiger before the filing of the Complaint on November 30, 2010, but was amended before it was served. The final form of the request for relief contains the following paragraphs:

9. Ordering joint and several liability against each and all of the members of the GMAC RACKETEERING ENTERPRISE, excluding AEGIS, but **limiting the liability of the Wisconsin Foreclosure Mills to Plaintiff's damages and share of punitive damages.**

10. Ordering punitive damages of \$10,000,000,000.00 in order to fully deter the GMAC RACKETEERING ENTERPRISE from continuing its frauds throughout the nation and ordering that the punitive damages be paid from its cash reserves, exclusive of any federal bailout funding.

11. Ordering that the first amount of the punitive damages award up to the amount of an amount to be determined to be a fair allocation of the punitive damages award to Plaintiff and that the remaining balance of the up to \$10,000,000,000.00 be paid to a Trust Fund to be administered for the benefit of all persons whose homes were taken by the GMAC RACKETEERING ENTERPRISE to a Trustee appointed by the Court (such a Kenneth Feinberg who administered the 911 settlement and is administering the Gulf Oil Spill settlement) to be distributed pro rata to the fraud victims on the basis of the fair market value of their homes at the time their homes were unlawfully taken by the GMAC RACKETEERING ENTERPRISE.

In neither the initial Complaint, provided to Potteiger with a demand to cancel the Sheriff's Sale because the judgment in the foreclosure action had been procured on false documents, nor the final version of the Amended Complaint served upon Potteiger and all of the other Defendants, was there any claim for damages in the amount of \$10,000,000.00 from the Wisconsin law firms.

15. The second set of false statements in the Potteiger Grievance are categorized by Potteiger as "II. MENTAL COMPETENCY" (Exhibit 1) and contains the following false statements made knowingly or with reckless disregard for the truth, contrary to SCR 20:3.3(a)(1):

a. On March 25, 2010, Ms. Nora, herself (although allegedly incapable of doing so), petitioned Judge Colas (sic) to appoint a guardian ad litem over her person.

Respondent was never allegedly incapable of asking a court to appoint a guardian ad litem and guardians ad litem are never appointed over a person. Guardians ad litem are appointed to assist a person who is in litigation and is incapable of handling that litigation due to a legally-recognized disability, such as minority or disability as defined at 42 U.S.C. sec. 1382c(3). At the time Respondent sought a guardian ad litem, she had reason to believe in good faith that she was

eligible for the appointment of a guardian at litem.

b. When that motion was denied, Ms. Nora, again on her own volition, filed a petition for a temporary guardian in Dane County Circuit Court, Probate Division, 10-GN-11.

Potteiger falsely implies that Respondent was not entitled to petition for a temporary guardian of “her own volition” when she was afflicted as described. Respondent sought a temporary guardianship in the hope that she would recover within the next six (6) months following the date of the petition.

c. The reports of medical professionals, submitted therein, describe Ms. Nora as “under the influence of such a high level of pain medication that she was totally incompetent,” forgetting months of time.

The foregoing recitation of confidential medical information at a certain time is exactly the reason why ADA accommodations should be administrative and not judicial determinations. Requiring a person suffering from a disability to litigate the facts of the disability leads to discrimination per se. Furthermore, confidential medical information should not be disclosed to a party opponent in litigation unless it is relevant to the issue in litigation, such as a personal injury case, and then it should be carefully controlled to prevent dissemination for the purposes of harming the person whose medical issues are to be disclosed.

Because Respondent was never interviewed by the investigator(s) appointed by the District 9 Ethics Committee, she was never asked and never explained that the description of her condition contained in the reports of her medical professionals in March, 2010 had resolved in June, 2010, six (6) months after she discovered, on her own research, that the combination of medications she had been prescribed were causing seizures and stopped taking one of the two medications immediately in mid-January, 2010. Potteiger’s grievance was filed six (6) months

after the condition described in the subject reports had substantially resolved.

d. The reports also indicate “the stress from said litigation causes such extreme physical pain . . . [when] exacerbated by her physical condition] . . . she becomes suicidal.” Ms. Nora is “still very fragile.”

The foregoing excerpts from the medical reports submitted in connection with the Petition for Temporary Guardian were selected by Potteiger to make it appear that months after the condition for which she sought to have a temporary guardian appointed, she should be investigated by her the OLR for having sought a temporary guardian, months earlier, when she was severely afflicted.

e. Ms. Nora admits “feeling faint, weeping, trembling” and being “mentally confused.” Most significantly, Ms. Nora claims to have had “suicidal ideations.”

Again, this is why confidential medical information should not be disclosed to a party’s opponents in litigation in connection with requests for ADA accommodations. The editing of the medical records by Potteiger to construct a grievance filed months after the severity of Respondent’s medical condition had been resolved, was the original “cause” for the investigation which led to Nora #1. Yet no one from OLR has ever asked Respondent about her medical condition or sought any medical information on more recent basis from her. She offered to address the mental competency issue with the investigators from District 9 in February, 2012 and they declined to interview her. No mental competency proceedings were ever initiated by OLR.

f. Despite a claimed mental state which does not beget the practice of law, Ms. Nora shamelessly continues to represent clients. If the reports are authentic, Ms. Nora should immediately discontinue her practice of law. If the reports were falsified, clearly Ms. Nora knows no bounds to her impropriety.

It is Potteiger who is shameless. Respondent was not representing clients during the period in which she was totally disabled. Potteiger’s misrepresentation that Respondent should

immediately discontinue her practice of law as of the date Potteiger signed the grievance, December 8, 2010, was intended to punish Respondent for suing him and the other Wisconsin Foreclosure Mill attorneys and firms named in the RICO action. Respondent had ethically reported herself to OLR for being then and there afflicted in March, 2010 and spoke to Director Keith Sellen. He told her that he did not want to add to her difficulties and to be mindful of her professional obligations. She was. She sought continuances of all of her clients' cases due to her then-current incapacity. She missed no deadlines in any of her clients' cases and only missed an unscheduled deadline in the summary judgment proceedings in her own foreclosure case by a handful of days in January, 2010, because she was having seizures. She immediately sought ADA accommodations when she regained consciousness, but not before she first tried to file her response to Potteiger's summary judgment motion, which was based on a "genuine machine copy" of the false second copy of the Note with the Allonge, which is not a lawful basis for foreclosure in the State of Wisconsin.

16. Starting with the misrepresentation of Attorney Arthur M. Moglowsky's Response to OLR's Preliminary Investigation (Exhibit 1, pages 9-10) in which he falsely claimed that Respondent had abandoned her legal position that RFC was not the real party in interest; to Potteiger's misrepresentation to Respondent on August 26, 2010 at 11:21 a.m that he was re-sending an email purportedly already sent on August 25, 2010 at 4:20 p.m. (the challenged email on Respondent's Motion for Relief in Nora #1); to the December 10, 2010 grievance filed by Potteiger; to Potteiger's April 24, 2014 Affidavit; to OLR's Motion for Summary Judgment orally made on the record, without notice to the Respondent; to the Referee's clearly erroneous inference of Respondent's foreknowledge of Potteiger's claim that a Loan Modification

Agreement is a Settlement Agreement, leading to the examination of Respondent's email metadata; to the false report of Erlick; to the false August 3, 2015 Affidavit of Potteiger and his false Exhibits purporting to reflect a relevant period of time; to the Referee's disregard of Potteiger's false Affidavit and Exhibits; in a process now culminating in multiple false allegations in the above-captioned matter (Nora #2) detailed herein, false statements of fact permeated Nora #1 and now require that the requested *Franks* hearing be granted to determine probable cause in this new proceeding.

17. These proceedings are a continuation of the selective and vindictive investigations of the Respondent, once again culminating in the initiation of a complaint without probable cause to believe that Respondent has violated any provision of the Wisconsin Code of Professional Conduct. These proceedings differ from Nora #1 because they are based on factual allegations which OLR knows to be false or has pleaded with reckless disregard for the truth thereof. Nora #1 was pleaded without a factual basis at all.

18. The United States Supreme Court held *In re Ruffalo*, 390 U.S. 351, that lawyer disciplinary proceedings are quasi-criminal in nature, and, by specific reference to the special proceedings addressed *In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527 (1967), to the extent possible, procedural due process required in criminal proceedings should be afforded to lawyers facing disciplinary proceedings, with respect to notice and opportunity to be heard. SCR 22.14 provides for a plea of no contest which is an acknowledgment of the quasi-criminal nature of lawyer disciplinary proceedings. There is provision for a no contest plea in the Wisconsin Rules of Civil Procedure. Pleas of not guilty, no contest, or guilty are entered in Wisconsin criminal proceedings.

19. It is both possible and necessary for these proceedings to provide Respondent with the right to challenge the probable cause for bringing the charges against her in this case (Nora #2) in a timely manner without requiring her to deny OLR's multiple intentional or recklessly false allegations under the Wisconsin Rules of Civil Procedure.

20. Furthermore, in the unlikely event that probable cause can be established on the remaining allegations in OLR's current Complaint, when the allegations which OLR knows or should have known to be false and were pleaded with reckless disregard for the truth. It is possible and necessary to allow Respondent to establish that the proceedings have been initiated to punish her for the lawful exercise of her constitutional rights, in violation of her right to procedural due process guaranteed under the Fourteenth Amendment to the *Constitution of the United States*.

21. In *Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978), the United States Supreme Court held, "[t]o punish a person because he has done what the law plainly allows him to do is a due process violation 'of the most basic sort.'"

22. The first selective and vindictive disciplinary proceeding was commenced by the filing of a Complaint in Nora #1 without probable cause, alleging that Respondent had defended her own home and had sought litigation accommodations in her personal case when she was then and there entitled to accommodations under the Americans with Disabilities Act as Amended (ADAAA) effective January 1, 2009.

23. The Complaint in Nora #1, filed on March 20, 2013 consisted of three (3) counts, all based on a grievance filed by Attorney David M. Potteiger (Potteiger), a litigation opponent of the Respondent, which was initiated to conceal his own professional misconduct.

24. The first investigation by OLR was commenced in 2010, based upon a grievance filed by Potteiger, who complained that the Respondent had named him, certain members of the law firm of BASS in federal district court (WIWD Case No. 10-cv-748⁵).

25. Then, Foshag filed a grievance against Respondent for filing an adversary proceeding in the United States Bankruptcy Court for the Southern District of New York (SBNY Adv. No. 13-1208⁶) for violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act, falsely claiming that Respondent was not entitled to file the RICO Complaint because “the *Roquer-Feldman* doctrine applies to bankruptcy proceedings.”

26. Respondent is plainly allowed to petition the judiciary for redress of her grievances against Potteiger, certain members of his law firm, his law firm, certain lawyers employed by GRAY & ASSOCIATES and GRAY & ASSOCIATES under the First Amendment to the *Constitution of the United States*, which provides:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and **to petition the government for a redress of grievances.** (Emphasis added.)

27. It has long been established that the First Amendment to the *Constitution of the United States* extends to the states (*Gitlow v. New York*,⁷ 268 U.S. 652 (1925)) and includes the

⁵ *Nora v. Residential Funding Company, LLC, et al.*, Case No. 10-cv-748 in the United States District Court for the Western District of Wisconsin.

⁶ *Nora v. Residential Funding Company, LLC, et al.*, Adv. No. 13-1208 in the United States Bankruptcy Court for the Southern District of New York.

⁷ For present purposes, we may and do assume that freedom of speech and of the press which are protected by the First Amendment from abridgment by Congress are among the fundamental personal

right to petition the judiciary for redress of grievances (*Bill Johnson's Restaurants, Inc. v. NLRB*,⁸ 461 U.S. 731, 741 (1983)).

28. Respondent has been subjected to an OLR investigation at the behest of Potteiger because she sought to have Dane County Circuit Court Judge Juan Colás disqualify himself in foreclosure proceedings involving Respondent's own home for what she believed in good faith were Judge Colás' extrajurisdictional decisions to deny Respondent's requests for accommodations under the Americans with Disabilities Act as Amended effective January 1, 2009 (ADAAA), which she self-identified in the course of the litigation, as constitutionally permitted and in conformity with ADAAA as interpreted and applied in the State of Wisconsin.

29. In an effort to establish compliance with the ADAAA by the Dane County Circuit Court, the Respondent commenced a civil rights action in the United States District Court for the Western District of Wisconsin in *Nora v. Colás, et al.*, Case No. 10-cv-709.

30. The investigators appointed by the Director of OLR in Nora #1 never interviewed the Respondent; they were given an extension of time to write their investigative report over the objection of the Respondent; their untimely report was submitted to the Preliminary Review Committee (PRC) which allegedly found "cause" which was never established as "probable

rights and "liberties" protected by the due process clause of the Fourteenth Amendment from impairment by the States. *Gitlow*, at page 666.

⁸ "[G]oing to a judicial body for redress of alleged wrongs . . . stands apart from other forms of action directed at the alleged wrongdoer. The right of access to a court is too important to be called an unfair labor practice solely on the ground that what is sought in the court is to enjoin employees from exercising a protected right." *Bill Johnson's Restaurants*, supra, page 741. See also, *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127, 135 (1961); *United Mine Workers v. Pennington*, 381 U.S. 657, 670 (1965), which combine to form the *Noerr-Pennington* doctrine immunizing petitions for redress of grievances in the form of lobbying efforts from prosecution under the Sherman Anti-Trust Act.

cause” in Nora #1 because Respondent was denied the opportunity to be heard upon evidence on her Motion to Dismiss for Selective and Vindictive Prosecution by the Referee in Nora #1, who has now been exposed as having pre-judged Respondent and having relied upon false evidence presented by OLR, produced by Potteiger.

31. The first investigation culminated in the commencement of proceedings entitled *OLR v. Nora*, Case No. 2013AP000653-D (Nora #1) without probable cause, alleging that Respondent had commenced the litigation described in Counts One and Three in the Complaint filed on above, on March 20, 2013.

32. The Complaint in Nora #1, filed on March 20, 2013 consisted of three (3) counts, all based on the Potteiger grievance and sought to penalize the Respondent with a suspension of her license for 6 months.

33. The Complaint in Nora #1 was subsequently amended on December 23, 2013 to include a fourth count, based on a grievance filed by Attorney N. William Foshag (Foshag) of GRAY & ASSOCIATES, LLP, co-counsel with Potteiger in the foreclosure case against the Respondent.

34. Foshag alleged that the RICO case filed by the Respondent in *Nora v. Residential Funding Company, LLC, et al.*, Adv. No. 13-1208 in the United States Bankruptcy Court for the Southern District of New York was frivolous. He based his grievance on *obiter dicta* in a decision of Judge Susan V. Kelley, an Article I Bankruptcy Court Judge in the Eastern District of Wisconsin, that the *Rooker-Feldman* doctrine applies to adversary proceedings in bankruptcy courts. The remarks of Judge Kelley were not essential to the decision because Judge Kelley determined that the *Rooker-Feldman* doctrine did not apply to the case in which the remarks

were made. Furthermore, the ruminations of an Article I bankruptcy judge do not establish precedent.

35. Respondent takes the position, as she explained to OLR, that *Heiser v. Woodruff*, 327 U.S. 726, 66 S.Ct. 853, 90 L.Ed. 970 (1946) is the controlling authority for the issue of the validity of judgments procured by fraud in subsequent bankruptcy proceedings, not the *Rooker-Feldman* doctrine. Furthermore, the *Rooker-Feldman* doctrine has been substantially narrowed by *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U. S. 280 (2005).

36. In *Lance v. Dennis*, 126 S.Ct. 1198, 163 L.Ed.2d 1059, 546 U. S. 459, 466 (2006), the United States Supreme Court held:

Rooker-Feldman is not simply preclusion by another name. The doctrine applies only in “limited circumstances,” *Exxon Mobil, supra*, at 291, where a party in effect seeks to take an appeal of an unfavorable state court decision to a lower federal court.

37. Even though he dissented from the majority opinion in *Lance v. Dennis*, Justice John Paul Stevens wrote at 546 U. S. 468:

Last Term, in JUSTICE Ginsburg’s lucid opinion in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), the Court finally interred the so-called “Rooker-Feldman doctrine.” And today, the Court quite properly disapproves of the District Court’s resuscitation of a doctrine that has produced nothing but mischief for 23 years.

38. Justice John Paul Stevens further remarked in *Marshall v. Marshall*, 126 S. Ct. 1735, 164 L.Ed.2d 480, 547 US. 293, 318 (2006), concurring in part and concurring in the judgment, with respect to another court-made exception to federal jurisdiction:

Rather than preserving whatever vitality that the “exception” has retained as a result of the Markham dicta, **I would provide the creature with a decent burial in a grave adjacent to the resting place of the *Rooker-Feldman* doctrine.** See *Lance v. Dennis*, 546 U. S. 459, 468 (2006) (Stevens, J., dissenting). (Emphasis added.)

39. OLR is not only resuscitating a doctrine which has produced “nothing but mischief” since 1983 and has been substantially narrowed by the United States Supreme Court in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, supra, but is seeking to punish the Respondent for bringing a claim in the United States Bankruptcy Court for the Southern District of New York which is clearly within federal jurisdiction, based on the grievance of Foshag of GRAY, co-counsel with BASS in Respondent’s foreclosure case, and a RICO Defendant in Respondent’s adversary proceeding in United States District Court for the Southern District of New York.

40. The *Rooker-Feldman* doctrine, which Justice Stevens declared dead and buried in *Lance v. Dennis*, supra, and *Marshall v. Marshall*, supra, is a jurisdictional doctrine narrowly applied to limit the jurisdiction of lower federal courts to decide appeals from state court judgments and has nothing whatsoever to do with cases arising in the original federal jurisdiction of the United States District Courts under Title 11 of the United States Code. As stated above, fraud cases in federal bankruptcy courts are governed by the principles of *Heiser v. Woodruff*, supra, where claim preclusion arises if the issue of fraud in the procurement of the judgment was fully and fairly litigated.

41. Nevertheless, without a basis in existing law or a good faith argument for the extension or modification of existing law (it is not remotely likely that the United States Supreme Court will reverse its position on the restricted application of the *Rooker-Feldman* doctrine by *Exxon Mobil*, supra), OLR seeks to penalize the Respondent for the benefit of Potteiger and Foshag, and other Wisconsin-licensed lawyers who have committed fraud upon the Courts of the State of Wisconsin as well as to conceal its own malfeasance in failing to investigate the grievances of homeowners who have been subjected to false pleadings, based on false

documents, supported by falsely sworn affidavits, by seeking an additional 6 months suspension of Respondent's license for Respondent's constitutionally-protected and lawful conduct.

42. In Nora #1, the Referee refused to consider the Verified Motions of the Respondent as evidence. (Decision and Order of May 20, 2015, pages 5-6.)

43. In Nora #1, it was discovered that Potteiger had made a misrepresentation that Respondent must have received an email purportedly sent on August 25, 2009 at 4:20 p.m. after the Referee relied on the now-challenged email to award summary judgment to OLR on Count Two because she improperly relied upon inferences she drew from Potteiger's Affidavit of April 24, 2014 to find that Respondent had foreknowledge of Potteiger's litigation position when Respondent sent a FAX to the Dane County Circuit Court on August 26, 2009 at 9:39 a.m., finding that the Respondent had violated SCR 20:3.3(a)(1) in her communication by FAX with the Dane County Circuit Court.

44. After it was exposed by unchallenged metadata that Respondent had not received the August 25, 2009 (4:20 p.m.) email, the Referee changed her finding that Respondent violated SCR 20:3.3(a)(1) based on unproved and unprovable "foreknowledge" to a finding that Respondent had a duty to correct her representation to the Dane County Circuit Court to conform to Potteiger's litigation position.

45. Respondent has consistently defended her FAX to the Dane County Circuit Court as containing entirely truthful representations and has taken the position that she has no duty to agree with a litigation opponent's interpretation of documents and evidence.

46. When confronted with the false evidence presented by OLR, produced by Potteiger, the Referee *changed* the basis for the unsupported charge that Respondent had violated SCR

20:3.3(a)(1) in clear violation of Respondent's right to know the charge before the proceedings commence. *Ruffalo*, supra, at 551.

47. When the evidence upon which the Referee relied to find that Respondent had foreknowledge of Potteiger's litigation position was shown to be unsupported by clear and convincing evidence (which had never been specifically charged as required by *Ruffalo*, supra, and, therefore, could not have been addressed by the Respondent), the Referee changed the nature of the charge from the foreknowledge she found upon no notice of the nature of the charge in Count Two to failure to correct a misrepresentation which the Respondent has consistently contended was a truthful representation.

48. Never before in any disciplinary proceeding before this Court has a lawyer been charged with a violation of SCR 20:3.3(a)(1) for not agreeing with an opponent's interpretation of documents and evidence. There is no obligation under SCR 20:3.3(a)(1) to correct a legal position asserted in good faith, based on true and correct copies of documents submitted to the Court for the Court to interpret.

49. Respondent's verified Answer to Count Two in Nora #1 identified true and correct copies of the exact documents she filed with the Dane County Circuit Court, which had long been in the possession of OLR before Count Two was charged, and defended against Count Two on the basis that she did not make a misrepresentation to the Dane County Circuit Court.

50. The Referee in Nora #1 in refusing to grant relief from the mistaken conclusion that Respondent had foreknowledge of Potteiger's litigation position, then disagreed with Respondent's interpretation of the documents she presented to the Dane County Circuit Court, convicting Respondent of having failed to correct a litigation position taken by the Respondent

with which Potteiger disagreed. In so doing, the Referee actively engaged in concealing the material fact that Potteiger created false documents (in violation of Wis. Stats. sec. 943.38) and swore under oath to their authenticity, in violation of Wis. Stats. sec. 946.32(1) and (2) in violation of SCR 20:3.3(a)(1) and (3) in these very proceedings.

51. The Referee in Nora #1, a Wisconsin licensed lawyer and mandatory reporter of ethics violations under SCR 20:8.3 failed to report the production of false documents and false swearing by Potteiger to OLR for investigation.

52. Rather than objectively investigate whether or not Respondent had received the challenged email, OLR chose to defend Potteiger against possible violations of SCR 20:3.3(a)(1), SCR 20:3.4(b) and SCR 20:8.4(b) and (c).

53. Instead of objectively examining the evidence as to whether or not Respondent received the challenged email, OLR hired, at taxpayer expense, an individual purporting to have expertise in electronic discovery by the name of Doug Erlick and obtained an inconclusive, demonstrably erroneous and unsworn report in which Mr. Erlick stated that the challenged email was “consistent with having been sent.”

54. The Erlick report ignores the only relevant evidence which was exclusively in the control of Potteiger, OLR and Mr. Erlick: the metadata pertaining to the challenged email of August 25, 2009 at 4:20 p.m.

55. The OLR prosecutor, who is also a Wisconsin licensed lawyer and mandatory reporter of ethics violations under SCR 20:8.3, not only failed to correct the record by removing the false evidence produced by Potteiger as required by SCR 20:3.3(a)(1), but hired, at taxpayer expense, a purported expert witness to validate Potteiger’s first misrepresentation that

Respondent must have received an email he claimed to have sent to the Respondent on August 25, 2009 at 4:20 p.m.

56. The unsworn and error-ridden report of the taxpayer-compensated “expert” produced by OLR in an apparent effort to exonerate Potteiger on the impertinent issue of whether or not the email was “sent” failed to address the material issue raised by Respondent’s Motion for Relief from the false finding of the Referee that she **received** the challenged email of August 25, 2009 at 4:20 p.m., despite the fact that the supposed “expert” and OLR claim to have access to the original, living email, complete with the metadata associated with the challenged email.

57. The metadata would have conclusively established that Respondent did not receive the challenged email. The metadata associated with the original, living email purportedly forwarded to OLR and its supposed “expert” by Potteiger would have conclusively determined the issue whether or not Respondent *received* the challenged email, but OLR’s expert did not produce the metadata which should have been available to him.

58. Examination of the metadata is a simple matter which anyone may perform by use of tools available at no charge using software available on the internet. Despite Respondent’s efforts to urge the OLR to simply examine the metadata and despite providing easy-to-use instructions to OLR how to do so using free software available on the internet, OLR persists in supporting Potteiger’s misrepresentations consisting of false statements, including, but not limited to:

a. Misrepresentation to Respondent in his email which Respondent did receive on August 26, 2009 at 11:21 a.m. in which he claimed that she had received the email of August 25, 2009 at 4:20 p.m., falsifying evidence in violation of SCR 20:3.4(b);

b. Misrepresentation to Respondent in his email of August 26, 2009 at 11:16 a.m. (which Respondent also received) in which he claimed to have FAXed certain documents to Respondent, falsifying evidence in violation of SCR 20:3.4(b).

c. False statements in Potteiger's Affidavit of April 24, 2014, falsely sworn insofar as it implies that his Exhibit B was received by Respondent by inference created by an email sent on August 26, 2009 at 11:21 a.m.

d. False statements in Potteiger's Affidavit of August 3, 2015 where he swears that the screen print he produced is a true and correct copy of the email correspondence maintained in the "ordinary course" since he was first employed by BASS & MOGLOWSKY in 2007, when the print screen plainly displays an open window which dates the print screen as no older than the date of the Affidavit of Larry R. Wickstrom, which was electronically transmitted to OLR on June 9, 2015 and which Potteiger himself acknowledges he reviewed on June 10, 2015. (Potteiger Affidavit dated August 3, 2015 at ¶5.)

59. Respondent's email log (Exhibit 8), maintained by the independent server commonly known as gmail and which is entirely outside of her control (other than to delete emails from her computer) shows seven (7) emails sent by Potteiger to the Respondent between August 26, 2009 and September 15, **2009**; Potteiger's print screen of no earlier than June 10, 2015 shows five (5) emails sent by Potteiger to Respondent between August 24, 2009 and August 5, **2010** (Exhibit 7).

60. Potteiger's false August 3, 2015 Affidavit and the Exhibits attached thereto, identifies a false "archive" of all of his email correspondence with the Respondent, are evidence of falsification of documentary evidence and false swearing by Potteiger in violation of SCR 20:3.4(b).

61. Potteiger's false representations to the highest tribunal in the State of Wisconsin, its Supreme Court, are in violation of SCR 20:3.3(1) and (3) in Nora #1 and were made to the to OLR⁹ and to the Respondent.¹⁰

62. That OLR, which is responsible for investigation of ethics violations by Wisconsin lawyers, has chosen to attempt to exonerate Potteiger by producing the unsworn, inadmissible and fully impeached report of Doug Erlick, at taxpayer expense in order to attempt to uphold an unsupported finding of fact that Respondent had foreknowledge of the contents of an email that she never received. The Referee in Nora #1 has now abandoned that finding and has now substituted a new, unsupported conclusion of law, amending the charge in Count Two without providing the Respondent with the opportunity to be heard, contrary to *In re Ruffalo*, supra.

63. OLR's refusal to correct the false evidence upon which it relied in prosecuting Count Two is substantial evidence of OLR's selective and vindictive prosecution of the Respondent. Rather than withdraw its false Count Two, confronted with the false evidence produced by Potteiger, the unchallenged evidence provided by Respondent and the evidence exclusively in the possession and control of OLR, OLR attempted to bring five (5) new Counts of ethics violations against Respondent in Nora #1, seeking to punish her, once again, for engaging in lawful conduct and asking for a penalty of an additional one year license suspension before a Referee who has herself engaged in misprision of Potteiger's federal felonies of wire and/or mail fraud in violation of 18 U.S.C. sec. 4.

⁹ The falsifications of evidence by Potteiger are violations of SCR 20:3.4(b) pertaining to counsel for OLR and the Respondent.

¹⁰ Id.

64. Without any basis in law or fact stated for filing a document purporting to be a Notice of Motion and Motion for leave to file a Second Amended Complaint in Nora #1, contrary to the plain reading of Wis. Stats. sec. 802.01(2)(a) which requires that motions state the grounds therefor with particularity, OLR simply filed a Second Amended Complaint with this Court.

65. In denying the filing of the Second Amended Complaint in Nora #1, the Referee exposed herself as being actually biased against the Respondent by written remarks in the Decision and Order denying OLR's groundless Motion as fully and completely set forth in the Respondent's Amended Verified Motion to Recuse Referee Lisa C. Goldman Pursuant to Wis. Stats. sec. 757.19(2)(b) and for Actual Bias Pursuant to Wis. Stats. sec. 757.19(2)(g) and SCR 60.04(e) and (hm) as Exhibit 13 attached hereto and incorporated by reference as if fully set forth herein.

66. The remarks specified in the Motion for Recusal show nothing less than a pre-conceived judgment against the Respondent in which she creates a prohibited *presumption*, writing: "Nora continues to practice law and *presumably* continues to do so in the same fashion." (Decision and Order of November 16, 2015, Page 5, Emphasis added.) Respondent is charged with litigating. Litigating is not a crime. Charging a lawyer with litigating is equivalent to charging a surgeon with performing surgery.

67. The Referee's expression of a prohibited presumption before she has heard any testimony subjected to cross-examination reveals what has been lurking, unexposed, since no later than November 14, 2014: actual bias in favor of OLR.

68. The complicity of OLR in Potteiger's production of false evidence in these proceedings is clear in its persistent pursuit of Count Two and its failure to investigate Potteiger

and other attorneys for mortgage servicers, including members of Potteiger's law firm, BASS and MOGLOWKSY, and Foshag and his law firm, GRAY & ASSOCIATES.

69. The Referee's actual bias is evident in her blatant disregard of the false evidence produced by Potteiger and presented by OLR in these very proceedings and the alteration of her conclusion that Respondent had violated SCR 20:3.3(a)(1) from disproved foreknowledge to a new charge of not withdrawing what are *truthful* representations of facts supporting her legal position set forth in the August 26, 2009 FAX.

70. These proceedings (Nora #2) further establish the selective and vindictive prosecution of the Respondent without probable cause to believe she has violated the Wisconsin Rules of Professional Conduct.

71. Once again, Respondent is accused of litigating, this time by representing clients, which is her right and her professional duty as an officer of this Court.

72. In order to support its false charge of ethics violations in litigation, OLR misrepresents the essential facts as well as the law applicable to the Rinaldis' and Ms. Spencer's cases.

73. OLR ignores the fact that both Mr. Rinaldi, prior to Respondent's representation of the Rinaldis, and Ms. Spencer filed detailed grievances against lawyers from the law firm of GRAY & ASSOCIATES, calling OLR's attention to the filing of false pleadings, false documents and false affidavits in each of their cases, which OLR failed and refused to formally investigate.

74. OLR misrepresents the facts of the Rinaldi foreclosure case, without any factual basis and falsely claims that the Respondent represented the Rinaldis in that case, which she did not.

75. The failure of OLR to use the simple tool of searching the Wisconsin Circuit Court Access Program (CCAP), which would have conclusively proved that Respondent *at no time* represented the Rinaldis in the foreclosure action commenced by Foshag of GRAY in the Kenosha County Circuit Court Case No. 2009CV000353 in the name of HSBC Bank USA, N.A., as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2 is a violation of SCR 20:1.1 (competence) and SCR 20:1.3 (diligence) and has resulted in a false charge against the Respondent in violation of SCR 20:3.1(a)(2) and, because these are quasi-criminal proceedings, OLR arguably also violates SCR 20:3.8(a).

76. OLR knowingly or recklessly misrepresented the readily provable fact that Respondent did not represent the Rinaldis in the foreclosure action, by alleging that Respondent represented the Rinaldis in the foreclosure action, which, incidentally, had been reopened and dismissed on the Motion of co-counsel with GRAY, Brad Markvardt (Markvardt) of LITCHFIELD CAVO, LLP (LITCHFIELD), against whom Mr. Rinaldi also filed a grievance, demonstrating that Markvardt knew or should have known that there was no recorded Assignment of Mortgage on the Rinaldis home and, therefore, Wells Fargo Bank, N.A. (Wells Fargo) and not HSBC Bank USA, N.A., as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a nonexistent entity, owned the mortgagee interest of record.

77. Foshag pleaded the foreclosure action against Roger and Desa Rinaldi, commenced on February 3, 2009, that HSBC Bank USA, N.A., as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a nonexistent entity, based on an UNENDORSED Note payable to Wells Fargo Bank, N.A. and an unassigned Mortgage

granted to Wells Fargo Bank, N.A. (Exhibit 14)

78. In the Rinaldis' 2009 foreclosure action, Foshag pleaded in ¶1 of the Complaint in Kenosha County Circuit Court Case No. 2009CV000353 that HSBC Bank USA, N.A., as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, is the current **owner and holder** of the Note and Mortgage, which was not true as a matter of fact or law, allegations which have never been corrected or withdrawn.

79. Upon information and belief, Mr. Rinaldi informed OLR that Foshag should be investigated for knowingly or intentionally misrepresenting that the "plaintiff" was the **owner and holder** of the Note and Mortgage in violation of SCR 20:3.3(1)(a) and submitted sufficient facts to justify an investigation of Markvardt, who proceeded to summary judgment on Foshag's Complaint falsely alleging that HSBC Bank USA, N.A., as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a nonexistent entity, was the owner and holder of the Note and Mortgage.

80. Foshag, of GRAY & ASSOCIATES, pleaded in the Rinaldis' 2009 foreclosure action, Foshag pleaded in ¶1 of the Complaint that the copies of the Note and Mortgage, attached to the Complaint were "true copies" of the Note and Mortgage.

81. On November 4, 2011, a copy of an ENDORSED Note was produced in the Rinaldis' Chapter 7 Bankruptcy in Eastern District of Wisconsin Case No. 11-35689 (Exhibit 15, Doc. 7-1, pages 25-30) in support of the Motion of Attorney Jay J. Pitner (Pitner) of GRAY for relief from the automatic stay filed on behalf of the nonexistent entity, attaching a copy of an unrecorded Assignment of Mortgage (Exhibit 15-Doc. 7-2) to an existing entity, HSBC Bank USA, N.A. (HSBC) as Trustee, without identifying the Trust for which HSBC was Trustee.

82. Pitner's November 4, 2011 filing in the Bankruptcy Court for the Eastern District of Wisconsin omitted (withheld) the recorded Assignment of Mortgage created by GRAY lawyer Duncan C. Delhey, which had been recorded in the Kenosha County Register of Deeds on April 5, 2011, 14 months after the commencement of the Kenosha County Circuit Court foreclosure action against the Rinaldis. (Exhibit 16)

83. In the Rinaldis' Bankruptcy Case, Pitner of GRAY contradicted the false allegations of Foshag of GRAY, by himself falsely alleging that the same nonexistent entity was holder (not the owner and holder) of the ENDORSED Note. (Exhibit 15, Doc. 7, page 1)

84. GRAY & ASSOCIATES produced a copy of an unrecorded Assignment of Mortgage purporting to assign the security interest in the Rinaldis' home to HSBC Bank USA, N.A. as Trustee without specifying any Trust for which HSBC Bank, N.A. was acting as Trustee. (Exhibit 15, Doc. 7-2.)

85. Mr. Rinaldi provided OLR with evidence that Foshag's allegations in ¶1 were knowingly made or made with reckless disregard for the truth of the allegation that HSBC Bank USA, N.A., as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a nonexistent entity, owned the "true" copy of the UNENDORSED Note attached to the Complaint in violation of SCR 20:3.3(1)(a).

86. OLR refused to formally investigate Mr. Rinaldi's grievances.

87. There is sufficient evidence to at least investigate Foshag's conduct in the Rinaldi foreclosure action, which appears to already constitute probable cause to believe that Foshag's allegation in ¶1 that an entity identified as HSBC Bank USA, N.A., as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a

nonexistent entity, was the **owner and holder** of an UNENDORSED Note was knowingly or recklessly made by Foshag, but OLR has chosen instead to prosecute the Rinaldis' present lawyer for making *truthful* representations in *good faith* to the Dane County Circuit Court in Nora #1, Count Two, based on the grievance of Potteiger, Foshag's co-counsel in the Respondent's foreclosure case, culminating in Potteiger's creation of false evidence to support OLR's opposition to Respondent's Motion for Relief from the Referee's erroneous finding that Respondent had foreknowledge that her representations to the Dane County Circuit Court were untrue, which the Referee found by making impermissible inferences.

88. In the foreclosure action filed against Sheila M. Spencer on April 7, 2009 in Wood County Circuit Court (Case No. 2009CV000283), Foshag identified the plaintiff as FNMC, a division of National City Bank of Indiana, n/k/a National City Bank, alleged that "plaintiff" was the **owner and holder** of "a certain note" and attached, as Exhibit A to the Complaint, a copy of an UNENDORSED Note payable to FNMC, a division of National City Bank of Indiana as a "true" copy. (Exhibit 17)

89. Foshag also attached a copy of a Mortgage granted by Ms. Spencer to FNMC, a division of National City Bank of Indiana, to the Complaint and alleged in ¶1 that "plaintiff" is the **owner and holder** of the Mortgage. (Exhibit 17)

90. The allegation in ¶1 of Foshag's April 7, 2009 Complaint against Ms. Spencer was false and Foshag knew or should have known the identification of the "plaintiff" as **owner and holder** of the UNENDORSED Note was false because the owner of the Note issued by Ms. Spencer and the Mortgage granted by Ms. Spencer had been sold to the Federal Home Loan Mortgage Corporation (Freddie Mac) on or about September 14, 2005 (Exhibit 19)

91. There is probable cause to believe that Foshag knowingly or recklessly alleged that an UNENDORSED copy of the Note was a “true” copy, and knowingly or recklessly alleged that the falsely identified “plaintiff” was the **owner and holder** of the Note.

92. Foshag’s Complaint concealed from Ms. Spencer and the Wood County Circuit Court was the fact that the UNENDORSED Note, in the form he identified as a “true” copy, had been sold to Freddie Mac in September, 2005, more than three and one half (3 ½) years earlier and had been owned by Freddie Mac since at least September 14, 2005.

93. Minimal due diligence would have established that Freddie Mac is the **owner** and that the predecessor in interest to National City Bank was the custodian of the Note.

94. Freddie Mac is the party entitled to the payment or performance of the Mortgage under Wis. Stats. sec. 409.203(7).

95. In the 2009 foreclosure action against Ms. Spencer, Foshag pleaded in ¶1 of the Complaint in Wood County Circuit Court Case No. 2009CV000283 that FNMC, a division of National City Bank of Indiana, nka National City Bank is the current **owner and holder** of the Note and Mortgage, which was not true as a matter of fact or law, allegations which have never been corrected or withdrawn.

96. Upon information and belief, Ms. Spencer filed grievances with OLR, asserting that Foshag and other lawyers at GRAY were making false representations in the foreclosure action for the purpose of preventing her from defending herself in the action, in violation of her right to due process of law, guaranteed by the Fourteenth Amendment to the *Constitution of the United*

*States.*¹¹

97. OLR refused to formally investigate Ms. Spencer's grievances.

98. There is sufficient evidence to at least investigate Foshag's conduct in the Spencer foreclosure, which appears to already constitute probable cause to believe that Foshag's allegation in ¶1 that an entity identified as FNMC, a division of National City Bank of Indiana, n/k/a National City Bank was the owner and holder of an UNENDORSED Note was knowingly or recklessly made by Foshag, but OLR has chosen instead to prosecute Ms. Spencer's present lawyer for making *truthful* representations in *good faith* to the Dane County Circuit Court in Nora #1, Count Two, based on the grievance of Potteiger, Foshag's co-counsel in the Respondent's foreclosure case, culminating in Potteiger's creation of false evidence to support OLR's opposition to Respondent's Motion for Relief from the Referee's erroneous finding that Respondent had foreknowledge that her representations to the Dane County Circuit Court were untrue, which the Referee found by making impermissible inferences.

99. In Nora #1, Respondent is charged in Counts Three and Four with litigating the validity of her own foreclosure. Counts Three and Four were initiated by the grievances of Potteiger and Foshag, co-counsel in the foreclosure action commenced against the Respondent on March 3, 2009 in Dane County Circuit Court Case No. 2009CV001096. (Exhibit 3)

100. Foshag pleaded in the foreclosure action commenced against Respondent on March 3, 2009, in ¶1 of the Complaint that an entity with whom Respondent had no relationship

¹¹ When it was subsequently discovered that Freddie Mac claimed ownership of her mortgage loan, the due process protections of the Fifth Amendment to the *Constitution of the United States* are implicated as well because Freddie Mac is in conservatorship of the Federal Housing Finance Authority (FHFA).

whatsoever, Residential Funding Company, LLC fka Residential Funding Corporation (RFC), was the **owner and holder** of a Note payable to AEGIS MORTGAGE CORPORATION (AEGIS) which was then and there proceeding in the a consolidated Chapter 11 Bankruptcy Case No. 07- 11119 in the District of Delaware.

101. Attached to the Complaint was a copy of a Note, purportedly endorsed in blank, which Foshag alleged in ¶1 was a “true” copy.

102. Also attached to the Complaint was the Respondent’s Mortgage, granted to the bankrupt AEGIS, along with an Assignment of Mortgage prepared by Jay J. Pitner (Pitner), an attorney in the employ of GRAY & ASSOCIATED, purported to have been executed on either January 6, 2009 or February 6, 2009, by Jeffrey Stephan (Stephan) and Kenneth Urgwuadu (Urgwuadu), as Vice President and Assistant Secretary, respectively, of Mortgage Electronic Registration Systems, Inc. (Exhibit 19)

103. Stephan and Urgwuadu were not officers of Mortgage Electronic Registration Systems, Inc. at any time, but were employed by GMAC Mortgage, LLC (GMACM), the parent company of RFC.

104. Foshag pleaded in ¶1 of the Complaint in Dane County Circuit Court Case No. 2009CV001096 that RFC was the current **owner and holder** of the Note and Mortgage, which was not true as a matter of fact or law, allegations which have never been corrected or withdrawn. (Exhibit 3)

105. When Respondent challenged the standing of the putative plaintiff RFC, RFC retained co-counsel, Arthur M. Moglowsky of BASS & MOGLOWSKY, who argued that RFC was the holder of the Note because it was endorsed in blank and never addressed the issue of

Foshag's claim that RFC was the **owner and holder** of the Note.

106. Potteiger did not convince the Respondent that RFC was entitled to enforce the Note as the **owner and holder** of the Note endorsed in blank and the entity entitled to the payment or performance of the security interest created by Pitner on the eve of filing the second foreclosure action, because AEGIS was in bankruptcy and was not free to have its assets assigned to third parties.

107. Respondent had anticipated the second foreclosure action because she was told by another lawyer at GRAY & ASSOCIATES, Attorney Michael M. Riley (Riley), that in her first foreclosure case (Dane County Circuit Court Case No. 2004CV000713), she had "settled with the wrong party," after she withdrew her motion to vacate what she believed was a settlement agreement of the first foreclosure action, executed in 2004.

108. Despite the fact that Riley of GRAY advised Respondent that she had "settled with the wrong party" (when Riley was the attorney representing the suddenly unidentified "wrong party" in litigation which was settled as Dane County Circuit Court Case No. 2003CV000713), Potteiger falsely alleged that Respondent had entered into a loan modification with "the assignee" for AEGIS, which Riley claimed, without identifying the supposed "right party," was the "wrong party."

109. Nora filed grievances against Moglowsky for making a misleading argument to the Dane County Circuit Court and against Pitner for creating an Assignment of Mortgage from AEGIS to a third party without leave of the Delaware Bankruptcy Court to do so in AEGIS' Chapter 11 Bankruptcy Case No. 07-11119-BLS.

110. OLR did not find sufficient reason to investigate Respondent's grievances either.

111. Potteiger, without having ever formally substituted for Moglowsky (CCAP Detail, Exhibit 2), sent a copy of a second version of a Note on or about June 17, 2009, after telling the Respondent that he was going to “convince her” that RFC had standing to proceed against her in the second foreclosure action.

112. The copy of the second version of the Note inserts a stamp reading “Residential Funding Corporation” in the blank space above the endorsement of AEGIS employee, Trymeka McCoy below the words “PAY TO THE ORDER OF” and bears a second stamped endorsement of one Judy Faber, claiming to be Vice President of RFC, purporting to endorse the Note specially in favor of JP MORGAN CHASE BANK, AS TRUSTEE.

113. In over seven years since receiving the second version of the Note, Respondent has been unable to identify any Trust of which JP Morgan Chase Bank was Trustee into which her Note and Mortgage had ever been deposited. According records of the Securities and Exchange Commission (SEC), Residential Asset Securities Corporation (RASC) purports to have formed 54 Minnesota Trusts, none of which are identifiable as the RASC2002KSSCONF Loan Pool, the entity appearing on the MERS® System for which RFC Trustee 03 is reportedly the Trustee. (Exhibit 20)

114. The copy of the second version of the Note purports to have an Allonge appended to it, purportedly executed by Amy Nelson, Assistant Vice President, who, by the Allonge, supposed endorsed the Note from The Bank of New York Trust Company, N.A., as successor in interest to JP Morgan Chase Bank, as Trustee, Residential Funding Company, LLC, fka Residential Funding Corporation, Attorney in Fact.

115. This document, by which Potteiger asserted that he would “convince” Respondent

that RFC was the party with standing to proceed against her in Dane County Circuit Court Case No. 2009CV001096, has now been exposed as having never been signed by an officer of RFC, as Attorney in Fact or otherwise, and, further, Amy Nelson was not employed by RFC at the time the Allonge was delivered to Respondent by U.S. Mail but was then an employee of Lender Processing Services, Inc. (LPS).

116. LPS was a notorious document forgery operation, now known as Black Knight Financial, LLC.

117. Lorraine Brown, CEO of a subsidiary of LPS known as DOCX, was convicted of conspiracy to commit wire fraud and admitted that over One Million (1,000,000) forged documents had been filed in public records throughout the United States of America. (Exhibit 21)

118. Respondent is now in possession of what purports to be the original Note, the originality of which has been determined by an expert, who will testify that the endorsement of Judy Faber, who has publicly admitted that she was never a Vice President of RFC (Exhibit 21), is a stamp and that the marking on the Allonge purporting to be the signature of Amy Nelson never existed in physical reality, but is, instead a computer-generated signature, pasted onto the computer-generated form of the Allonge and then printed.

119. There is no evidence that RFC or LPS had a Power of Attorney from AEGIS, JP Morgan Chase Bank or an entity calling itself “The Bank of New York Trust Company, N.A.”

120. Furthermore, at the time the Allonge was produced and was likely created to help Potteiger “convince” Respondent that RFC was the real party in interest, “The Bank of New York Trust Company, N.A.” was known as The Bank of New York Mellon Trust Company, N.A.

(Exhibit 23 and Exhibit 24)

121. Almost all of the evidence set forth above has been presented to OLR over the past five (5) years and OLR ignores the evidence that Foshag made false representations and attached a false Assignment of Mortgage in Respondent's second foreclosure case and OLR is completely aware of Potteiger's misrepresentations and false statements in his grievance which led to Nora #1, in which OLR chose to be complicit.

122. Almost all of the evidence set forth above was presented to the Referee in Nora #1 in Respondent's Verified Motions to Dismiss Counts One, Three and Four of OLR's Amended Complaint and Answer to Count Two, who ignored it, stating that it was not "in the record," when, in reality, Respondent's Motions to Dismiss and Answer was verified and the documentary evidence, which all of which is authenticated as filings in the public record.

123. OLR has sufficient evidence to commence a formal investigation of Foshag and Potteiger, but instead ignores all of the evidence which should lead to formal investigations of the pattern and practice of Wisconsin-licensed lawyers, Potteiger and Foshag, and instead spends substantial public resources investigating and bringing serial false Complaints against Respondent.

124. On November 14, 2014, OLR Assistant Litigation Counsel Sheryl St. Ores instructed Respondent that Respondent was "not allowed" to prosecute the case of *Nora v. Fidelity National Financial, Inc., et al.*, filed in the United States District Court for the District of Minnesota (Minnesota District Court) on October 22, 2014 as Case No. 0:14-cv-04449-PJS-SER.

125. Clearly, OLR does not have the authority to instruct or allow Respondent to engage in litigation for the public benefit, as she did in *Nora v. Fidelity National Financial, Inc., et al.*

126. OLR commenced another investigation of the Respondent on November 18, 2014 into Respondent's filing of the Complaint in *Nora v. Fidelity National Financial, Inc., et al.* which, surprisingly, has not yet resulted in the filing of false charges against the Respondent.

127. OLR investigation into the filing of *Nora v. Fidelity National Financial, Inc., et al.* required Respondent to once again explain the application of the now nearly obsolete and, at the very least, strictly limited doctrine, *Rooker-Feldman* doctrine to the litigation and OLR seemed entirely unaware of the existence of what are known as Pierringer releases, which originated from the decision of the Wisconsin Supreme Court in *Pierringer v. Hoyer*, 21 Wis.2d 182, 124 N.W.2d 106 (Wis., 1963) and has been adopted by the majority of states.

128. That OLR's prosecutor, Sheryl St. Ores, instructed the Respondent that she was "not allowed" to file the action against Fidelity National Financial, Inc. in the Minnesota District Court seemingly did not know about the nationally recognized case of *Pierringer v. Hoyer*, supra, and that OLR's investigator, Travis Stieren, who is also a Wisconsin-licensed attorney, would even seek to investigate Respondent's legal basis for Minnesota federal district court action shows that OLR is not concerned about the facts or the law, but is acting selectively and vindictively to silence the Respondent and deny her clients and others similarly situated the "fashion" of legal representation she provides and has provided for more than 40 years.

129. OLR demonstrates its total disregard of the procedural and substantive facts in Rinaldi and Spencer and is so reckless in its allegations that it did not even check CCAP in either case.

a. CCAP would have plainly disclosed that Respondent never represented the Rinaldis in the foreclosure action in Kenosha County Case No. 2009CV000353.

b. CCAP would have plainly disclosed that Wood County Circuit Court Case No. 2013TJ000049, about which they complain, in Counts One, Two and Three, is not a case in litigation at all, but is the recording of a judgment for attorney's fees.¹²

130. While Respondent has been charged with a single Count of misrepresentation under SCR 20:3.3(a) which, for some reason, is not even filed in the record in Dane County Circuit Court Case No. 2009CV001096, and for which she was convicted based on the false evidence and false grievance submitted by Potteiger, the court records in the Rinaldis,' Ms. Spencer's and Respondent's foreclosure and bankruptcy cases alone, as well as Nora #1, show multiple misrepresentations, false documents, and falsely sworn Affidavits, made and presented by grievants Potteiger and Foshag, which OLR has failed and refused to investigate. The misrepresentations of Foshag and Potteiger violate SCR 20:3.3(a), which they have never corrected. Yet, OLR has aggressively pursued Count Two of Nora #1, and when confronted with substantial evidence of Potteiger's false swearing and production of false evidence consisting of the print screens, did not seek to correct the misrepresentations it made in Nora #1 and has allowed the false evidence to stand in the record of Nora #1.

131. Further evidence of selective and vindictive prosecution of the Respondent consists of the fact that Respondent alone, and not Attorney Kim A. Lewis of LEWIS & LEVINSON, who were co-counsel in *Rinaldi, et al. v. Wells Fargo Bank, N.A., et al.*, Case No. 2011CV001477. While OLR falsely charged Respondent with representing the Rinaldis in their

¹² One would think that Wisconsin licensed attorneys would know the difference between YEARCNUMBER and YEARTJNUMBER, but that level of incompetence and lack of diligence is even more unforgivable because they are charging a licensed attorney with bringing frivolous actions about which OLR lawyers have no basic understanding of either of the facts or the law.

foreclosure action, it wholly failed to investigate the only state court case in which Respondent appeared on behalf of the Rinaldis, which is Kenosha County Circuit Court Case No. 2011CV0001477. Attorney Lewis was never contacted by OLR regarding the representation of the Rinaldis in that case as co-counsel with the Respondent.

132. If OLR had done a minimal desktop search of CCAP, it could have never filed the false allegations in ¶¶ 64, 67, 68, 69, 70, 71, 74, and 77(d) which have been pleaded against the Respondent in support of Counts Four and Five.

133. The conduct of Attorney St. Ores, on behalf of Director Sellen and the Office of Lawyer Regulation (OLR), violates the minimum standards of pleading and practice required by the Wisconsin Rules of Civil Procedure and the Wisconsin Code of Professional Conduct at SCR 20:1.1; 20:1.3; 20:3.1(a)(1) and (2); SCR 20:3.3(a)(1), SCR 20:3.4(b) and SCR 20:8.4(a),(b), (c), (f) and (g), set forth above and enumerated, without limitation, below:

Representation of Sheila M. Spencer, Counts One, Two and Three

134. Paragraph 4 of the Complaint in Nora #2 is a legal impossibility and is incompetently pleaded without a basis in fact or law, violating SCR 20:1.1, 20:3.1(a)(1) and (2).

135. Paragraph 5 of the Complaint in Nora #2 is false and has been pleaded without a factual basis, violating SCR 20:3.1(2).

136. Paragraph 6 of the Complaint in Nora #2 is false as to the date of filing of the foreclosure Complaint, the name of the case and the case number and is pleaded without a basis in fact, violating SCR 20:3.1(2).

137. Paragraph 8 of the Complaint in Nora #2 is false and has been pleaded without a factual basis, violation SCR 20:3.1(2).

138. Paragraph 9 of the Complaint in Nora #2 falsely implies that it is unethical to require an entity seeking to foreclose on Wisconsin real estate establish that it has the legal right to do so and is incompetently pleaded, violating SCR 20:1.1, and is without a basis in law, violating SCR 20:3.1(2).

139. Paragraph 10 of the Complaint in Nora #2 is a misstatement:

a. The Court allowed *PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC* to appear as the plaintiff in the action on December 21, 2012.

b. Because Ms. Spencer's actual foreclosure action in Wood County Circuit Court Case No. 2009CV000353 is presently on appeal and the entire file is located one floor below the Offices of OLR (which Respondent told Mr. Stieren months ago), the pleading of paragraph 10 is incompetent in violation of SCR 20:1.1.

c. OLR fails to state that the decision allowing the Amended Complaint to be amended to identify the plaintiff as *PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC* is pending on appeal.

140. Paragraph 11 of the Complaint in Nora #2 is a misstatement and falsely implies that it is unethical to raise issues of civil fraud and racketeering in defense of the property rights of a Wisconsin citizen. Because OLR has been repeatedly and extensively informed of the legal and factual basis of Respondent's claims, the pleading of paragraph 11 is incompetently alleged and in violation of SCR 20:1.1.

141. Paragraph 13 of the Complaint in Nora #2 is a mischaracterization of the

proceedings on May 23, 2012. On May 23, 2012, the Court indicated that there were numerous issues which needed to be addressed and allowed Respondent to make a list of the issues. There is a complete Transcript of the proceedings on May 23, 2012 presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review. The pleading of paragraph 13 is incompetent in violation of SCR 20:1.1 and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

142. Paragraph 17 of the Complaint in Nora #2 is false as a matter of fact and law. The scheduling order is not a final order. As a matter of fact, Respondent eventually obtained a copy of the scheduling order directly from the Court by having her client retrieve it from the Office of the Clerk of the Wood County Circuit Court. It is true that Gray & Associates, LLP did not send a signed copy of Order dated June 12, 2012 to the Respondent. The entire record of the proceedings in Wood County Circuit Court Case No. 2009CV000283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review. The pleading of paragraph 17 is incompetent in violation of SCR 20:1.1, is without a legal basis in violation of SCR 20:3.1(a)(1), and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

143. Paragraph 18 of the Complaint in Nora #2 is false as a matter of fact. Respondent did not take the position that Judge Potter was required to send a copy of the June 12, 2012 Order to the Respondent. Respondent stated that an employee of the Wood County Clerk of Circuit Court refused to provide her with a copy of the June 12, 2012 Order upon her verbal, telephonic request. Paragraph 18 falsely implies that Respondent is ethically precluded from raising the issue that GRAY & ASSOCIATES did not send a copy of the signed Order of June 12, 2012 to

the Respondent, when it is the expectation of the Court that the party obtaining an Order will serve a copy of the Order on opposing counsel. The entire record of the proceedings in Wood County Circuit Court Case No. 2009CV000283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review. The pleading of paragraph 18 is incompetent in violation of SCR 20:1.1, is without a factual basis in violation of SCR 20:3.1(a)(2), and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

144. Paragraph 19 of the Complaint in Nora #2 is false as a matter of fact. The issue of ex parte communications occurring before Respondent represented Ms. Spencer and while Ms. Spencer was appearing pro se involved Gray & Associates, LLP scheduling a summary judgment hearing on March 31, 2010 with a hearing date of March 31, 2010; creating two (2) different letters dated February 17, 2011 and serving one on Ms. Spencer and filing a different version with the Court, preventing Ms. Spencer from being informed of an “Affidavit issue” which required the Plaintiff to cancel the Sheriff’s Sale (to wit, the Affidavit of Mendy Munday dated November 25, 2009 in which Ms. Munday falsely swore, on personal knowledge, that *PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank* was the “current owner and holder of the Note and Mortgage”); there is no “letter” dated June 20, 2011, but there is an Order Vacating Summary Judgment dated on June 20, 2011 (a Sunday), which was entered without notice and hearing being provided to Ms. Spencer. The entire record of the proceedings in Wood County Circuit Court Case No. 2009CV000283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

The pleading of paragraph 19 violates SCR 20:3.1(2) and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

145. Paragraph 20 of the Complaint is false as a matter of fact. The March 31, 2010 filing was not a letter, but was a Motion for Summary Judgment which was dated March 31, 2010 and scheduled the hearing for the same day. Ms. Spencer never claimed that she did not receive the March 31, 2010 Motion for Summary Judgment which was mailed to her on March 31, 2010. Ms. Spencer's position was that, by the time she received the Motion for Summary Judgment dated March 31, 2010 and setting hearing on the Motion for March 31, 2010, the date set for the hearing had already passed. Ms. Spencer was not informed of a new date by which she would be allowed to respond to the Motion for Summary Judgment. The Order granting Summary Judgment was entered on April 19, 2010, less than the 20 days after the date of mailing of the Motion for Summary Judgment. The April 19, 2010 Order granting Summary Judgment was entered without notice and opportunity for Ms. Spencer to be heard. The entire record of the proceedings in Wood County Circuit Court Case No. 2009CV000283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review. The pleading of paragraph 20 violates SCR 20:3.1(2) and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

146. Paragraph 21 of the Complaint is false as a matter of fact. There were two (2) letters dated February 17, 2011 of which one version was sent to the Court and one version was sent to Ms. Spencer. There is no "letter" of June 20, 2011. There is an Order dated June 20, 2011 (a Sunday) which was never sent to Ms. Spencer. The entire record of the proceedings in Wood County Circuit Court Case No. 2009CV000283 is presently located one floor below the Office of

Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review. The pleading of paragraph 21 violates SCR 20:3.1(2) and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

147. Paragraph 23 of the Complaint is factually false insofar as it collapses the time frame between the date of receipt of the Transcript of the May 23, 2012 proceedings and the date of discovery that page 3 of the Transcript was missing. As soon as possible after it was discovered by Ms. Spencer's direct inspection of the Court record that the copy of the Transcript sent to Respondent was sent without page 3 being included, Respondent corrected the record to state that there had apparently been a collating error on November 2, 2012. The incomplete Transcript was received by Respondent on July 16, 2012 and Ms. Spencer discovered the missing page 3 in the Court record by direct inspection and sent the missing page 3 to Respondent on October 30, 2012. The entire record of the proceedings in Wood County Circuit Court Case No. 2009CV000283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review. The pleading of paragraph 23 violates SCR 20:3.1(2) and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

148. Paragraph 26 of the Complaint is false as a matter of law because it suggests that an incomplete copy of a Transcript does not prejudice the party relying on the Transcript. Such a suggestion is not based on existing law or a good faith argument for modification or extension of existing law. The pleading of paragraph 26 violates SCR 20:3.1(1).

149. Paragraph 27 of the Complaint is false as a matter of fact. Respondent never claimed that Judge Potter and the court clerk intentionally manipulated the court record.

Respondent's exact words related to the flawed Transcript of the proceedings on May 23, 2012 are

17. It is unthinkable but unavoidable to consider that Judge Potter and/or the court reporter edited the Transcript of the hearing on May 23, 2012 to make it appear that Judge Potter was less biased than he is . . .

Respondent did not state that Judge Potter and the court clerk intentionally manipulated the court record. Rather, she stated that it was unthinkable but unavoidable to consider the possibility that Judge Potter and/or the court reporter edited the Transcript of the hearing. Some of the language missing from the Transcript was later discovered by Ms. Spencer in the Court's copy of the Transcript. Respondent received page 3 of the Transcript on October 30, 2012 from Ms. Spencer and the Respondent filed a Notice of Correction dated November 2, 2012 promptly thereafter as required by SCR 20:3.3(a). The true facts, known to OLR by reason of its pleading of paragraph 27, show that Respondent engaged in *ethical* conduct by complying with SCR 20:3.3(a)(1). OLR has violated SCR 20:3.3(a)(1) by knowingly misrepresenting facts in the pleading of paragraph 27.

150. Paragraph 29 falsely suggests that an attorney cannot ethically move for the disqualification of a judge. Paragraph 29 is not based on existing law or a good faith argument for the modification or extension of existing law and is pleaded in violation of SCR 20:3.1(a)(1).

151. Paragraph 30 is false as a matter of fact in that it states Respondent accused the judge, opposing counsel and court personnel of manipulating the record in her Motion to Disqualify Judge Potter dated July 23, 2012. That Motion speaks for itself and the allegations are supported by multiple facts in the record. There is no statement in the Motion to Disqualify Judge Potter which supports the OLR's allegation in paragraph 30. Paragraph 30 is pleaded in

violation of SCR 20:3.1(a)(1).

152. Paragraph 31 is false as a matter of fact insofar as it suggests that a written order was entered denying the Motion for Disqualification of Judge Potter. The Transcript of the proceedings on August 8, 2012 speaks for itself. The entire record of the proceedings in Wood County Circuit Court Case No. 2009CV000283 has been located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin since January 2, 2015. OLR has apparently failed to review the Transcript of the August 8, 2012 hearing on the Motion to Disqualify Judge Potter. The pleading of paragraph 31 violates SCR 20:3.1(2) and is lacking in even the minimum amount of diligence, in violation of SCR 1.3.

153. Paragraph 32 is without foundation in existing law. No “motion” to remove the Spencer case to federal court was ever filed because that is not the procedure for removal. The procedure for removal is set forth at 28 U.S.C. sec. 1446 and involves the filing of a Notice of Removal. The pleading of paragraph 32 violates SCR 20:3.1(a)(1) and is lacking in even the minimum understanding of the requirements pertaining to removal of state court actions to federal court and, therefore, violates SCR 1.1.

154. Paragraph 34 is unsupported by facts or law. In order to support removal and defend against remand, it is necessary to provide the federal court with the factual basis for the removal. Demonstrating the Plaintiff identified in the proceedings in state court is a sham party is fundamental to support the concealment of the existence of federal jurisdiction. Each of the following, successively-named Plaintiffs in the Spencer case are sham Plaintiffs:

1. *FNMC, a division of National City Bank of Indiana nka National City Bank*
2. *PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of*

Indiana n/k/a National City Bank

3. *PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC*

The use of the term “sham” as applied to parties is standard in removal actions. See *De-Frauding the System: Sham Plaintiffs and the Fraudulent Joinder Doctrine*, Matthew C. Monahan, Michigan Law Review, Vol. 110:1341. It is in routine cases removed after 30 days from the commencement of the state court action to provide evidence that the grounds for removal were discovered after 30 days following the commencement of the state court action that the grounds for federal jurisdiction were concealed.

The term “sham” is routinely used to describe plaintiffs’ efforts to defraud the system by preventing the exercise of federal jurisdiction, as explained in *De-Frauding the System: Sham Plaintiffs and the Fraudulent Joinder Doctrine*. There is nothing unethical about using standard language in an argument for the existence of federal jurisdiction, which had been fraudulently concealed by plaintiffs. The pleading of paragraph 34 violates SCR 20:3.1(a)(1) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

155. Paragraph 35 is unsupported by existing law. The federal district court remanded the Spencer case to the Wood County Circuit Court. The federal district court had to have jurisdiction over the case before it could remand the case. The federal district court did not hold that “federal jurisdiction did not attach to the Spencer case.” The federal district court had jurisdiction over the Spencer case until it was remanded to the Wood County Circuit Court and it retained *jurisdiction* to award attorneys’ fees for what is known as “improvident removal.” It

held that it no longer had *jurisdiction* once it entered the remand order. Paragraph 35 is not based on existing law or a good faith argument for modification or extension of existing law. The pleading of paragraph 35 violates SCR 20:3.1(a)(1) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

156. Paragraph 38 is false as a matter of fact. The Second Motion for Reconsideration of the Award of Attorneys' Fees was not "summarily denied." The pleading of paragraph 38 violates SCR 20:3.1(a)(2) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

157. Paragraph 42 is unsupported by existing law. Part of the body of defamation law is an action for invasion of privacy. Publication of confidential medical records, filed under seal, is invasion of privacy, which is a species of defamation. The medical records were confidential and in writing and their publication was, therefore, libelous. Moreover, because Respondent had recovered from an acute disabling condition reported to the Court as a basis for ADA accommodations, their publication more than a year after the records were filed under seal would be actionable as libel by false light, were Judge Crabb not immune as having libeled Respondent under color of a judicial decision. Respondent can show that her confidential medical information was no longer a true in order to support an allegation that the publication of those records was libelous as an invasion of privacy and libel by false light. The pleading of paragraph 42 violates SCR 20:3.1(a)(1) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and

SCR 20:1.3.

158. Paragraph 43 is not supported by any facts or law. The purpose of the allegation of libel was to establish Respondent's standing to appeal from Judge Crabb's decision in her own name. Her alternative would have been to file a Petition for Writ of Mandamus under the law of the Seventh Circuit, under *Bolte v. Home Ins. Co.*, 744 F.2d 572 (1984). Respondent was seeking to modify or extend the law of the Seventh Circuit to allow attorneys to directly appeal from judicial criticism, which is allowed in other circuits. The pleading of paragraph 43 violates SCR 20:3.1(a)(1) and (2) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

159. Paragraphs 44-60 contain mere recitations and do not provide any specific facts to support the conclusion that Respondent knowingly violated any subsection of SCR 20:3.1(a). Standing alone and without the false allegations of fact and misrepresentations of law, there would be no probable cause to proceed on Counts One, Two and Three.

160. Paragraph 61 is unsupported by facts or law because it is not based on any true facts that Respondent knowingly (or recklessly) violated any subsection of SCR 20:3.1(a).

161. Paragraph 62 is unsupported by facts that Respondent violated SCR 20:3.2 and is contrary to law. The allegation that Respondent engaged in an ongoing pattern of conduct to "harass other parties and judicial officers," except paragraphs identified above as being false. There is no evidence that Respondent was seeking to delay the Spencer case. There is only a suspicion by a panel of the Seventh Circuit Court of Appeals which wrote that they "*suspect* that the removal was part of a strategy to gum up the progress of the case." Suspicions are not

evidence and do not even rise to the level of probable cause. The pleading of paragraph 62 violates SCR 20:3.1(a)(1) and (2) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

162. Paragraph 63 is unsupported by facts that the Respondent violated her oath. To the contrary, there is substantial evidence consisting of hundreds of pages of documents which Respondent presented to OLR which shows that Respondent is upholding her oath which provides:

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.

There is no evidence that Respondent is seeking personal gain nor is there any evidence that she is acting maliciously toward any person. She is, however, undertaking the cause of the defenseless and oppressed. The pleading of paragraph 63 violates SCR 20:3.1(a)(1) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

Representation of Roger and Desa Rinaldi, Counts Four and Five

163. Specifically, having been informed that the Respondent did not represent Roger and Desa Rinaldi in the Kenosha County Circuit Court foreclosure case (Case No. 2009CV000353), OLR falsely accuses Respondent of representing the Rinaldis in that action in paragraphs 67 and 68 of the Complaint. OLR falsely accuses the Respondent of not appealing summary judgment in Kenosha County Circuit Court Case No. 2009CV000353 when she did not represent the Rinaldis in that action. All OLR had to do is check the Wisconsin Circuit Court Access

Program, which would conclusively prove that Respondent never represented the Rinaldis in that case. There is no factual basis for paragraphs 67 and 68 of the Complaint. The pleading of paragraphs 67 and 68 violates SCR 20:3.1(a)(2) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

164. Paragraph 69 is false insofar as it suggests that Respondent was in any way involved in the loan modification agreement between HSBC Bank USA, N.A.¹³ (HSBC) and the Rinaldis. Paragraph 69 relates to the proceedings in Kenosha County Circuit Court Case No. 2009CV000353 and Respondent never represented the Rinaldis in that action. Again, recourse to the Wisconsin Circuit Court Access Program would conclusively demonstrate that Respondent never represented the Rinaldis in that case. There is no factual basis for paragraph 69 of the Complaint. The pleading of paragraph 69 violates SCR 20:3.1(a)(2) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

165. Paragraph 70 is false as a matter of fact. Again, recourse to the Wisconsin Circuit Court Access Program would conclusively demonstrate that Respondent did not file a new state lawsuit, “reasserting the Rinaldis’ counterclaims against the same parties.” The case to which

¹³ It should also be noted that the Loan Modification Agreement was not executed by an employee or officer of HSBC, but was purportedly executed by an employee of Wells Fargo Bank, N.A. The plain reading of the Loan Modification Agreement establishes that HSBC was not a party to the Loan Modification Agreement. No authority for Wells Fargo Bank, N.A. to execute the Loan Modification Agreement has ever been presented and the Loan Modification Agreement was never in effect because it was never returned to the Rinaldis by mail as required by its terms. It suddenly appeared in image format more than one and one half (1½) years after it was purportedly signed.

OLR is attempting to refer is Kenosha County Circuit Court Case No. 2011CV001477. The Rinaldis commenced that action pro se on June 10, 2011. Respondent and co-counsel, Kim Andrew Lewis, appeared in the action in August, 2011 and moved to dismiss the case without prejudice for improper service. Simple recourse to the Wisconsin Circuit Court Access Program would demonstrate that Respondent did not file the action. When she appeared with co-counsel, Respondent and Attorney Lewis only sought to dismiss the action without prejudice for improper service of process. There is no factual basis for paragraph 70 of the Complaint. The pleading of paragraph 70 violates SCR 20:3.1(a)(2) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

166. Paragraph 71 is pleaded without a factual basis and contains a false inference. Respondent was not representing the Rinaldis when the defendants moved to dismiss the Complaint in Case No. 11-CV-1477. Simple recourse to the Wisconsin Circuit Court Access Program would demonstrate that Respondent and her co-counsel agreed with the defendants that service of process was improper because the Rinaldis, pro se, had not served authenticated copies of the Summons and Complaint on the defendants. A dispute arose solely because the defendants responded to the Rinaldis' newly appearing counsels' agreement that service of process was improper and sought to dismiss the action without prejudice and the defendants responded by seeking dismissal with prejudice. There is no factual basis for pleading paragraph 71 of the Complaint as evidence of an ethics violation by the Respondent because she and her co-counsel properly sought to dismiss the action for improper service of process. The pleading of paragraph 71 violates SCR 20:3.1(a)(1) and is lacking in even the minimum amount of

competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

167. Paragraph 72 is false and OLR should have known that paragraph 72 is false. Respondent did not file the Rinaldis' bankruptcy in the Eastern District of Wisconsin as Case No. 11-35689. Simple recourse to pacer.gov would have shown OLR that the Rinaldis' bankruptcy case was filed by Attorney Jay Nixon of Racine, Wisconsin on October 14, 2011. Paragraph 72 is pleaded without a factual basis. The pleading of paragraph 72 violates SCR 20:3.1(a)(2) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

168. Paragraph 74 is, again, false, insofar as it alleges that Respondent "filed adversary claims against the parties she had counter-claimed against in the state action." OLR should have known that Respondent did not file counterclaims in Kenosha County Circuit Court Case No. 2009CV000353 because she did not represent the Rinaldis in that action. In fact, she did not even meet Roger Rinaldi until August, 2011. Respondent met Mr. Rinaldi at the offices of Lewis & Levinson in Richmond, Illinois. At that time, he was seeking representation in Kenosha County Circuit Court Case No. 2011CV001477 and neither she nor Attorney Kim Andrew Lewis were prepared to undertake representation in Case No. 2011CV001477 beyond stipulating to the dismissal of the action for improper service of process, which their research showed was the correct course of action. Mr. Rinaldi agreed to have Respondent and Attorney Lewis represent the Rinaldis in stipulating to the dismissal of the action for improper service of process. The pleading of paragraph 74 violates SCR 20:3.1(a)(1) and is lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation

of SCR 20:1.1 and SCR 20:1.3.

169. Paragraphs 75 and 76 are true, but do not contain any allegations which would constitute an ethics violation.

170. Paragraph 77(a) paraphrases the federal district court's decision, but ignores the context of the decision, which is that the Rinaldis had moved to consolidate two orders from the main bankruptcy court as well as the report and recommendations in the adversary case, which were the result of a single decision and was indeed confusing, primarily to counsel for the Rinaldis.

171. Paragraph 77(b) paraphrases the federal district court's decision, does not address the issues Respondent raised on appeal and by objection to the Report and Recommendation.

172. Paragraph 77(c) is not true. The adversary claims were not dismissed because "their submission of those claims was 'an unfocused, stream-of-consciousness-style recitation of grievances debtors have asserted in various forms since the origination of the litigation in state court.'" Rather, Respondent's objection to the Report and Recommendations was found to have not been sufficiently *specific* and because the filings did not conform to the procedural rules, which were difficult to apply to cases which were consolidated by Judge Kelley's decision but were not consolidated as a matter of law. The same decision disposed of issues in the main case, Case No. 11-35689, as well as in the adversary proceeding, Adv. No. 12-2412, resulting in two (2) different types of review.

What the Respondent was trying to articulate was that the Rinaldis objected to the entirety of the Report and Recommendation to dismiss the adversary case and that they had a right to an evidentiary hearing in the main case. Respondent was trying to call the court's

attention to the fact that the Rinaldis did indeed have standing to challenge the fact that there had been no endorsement on the Note filed in the state court foreclosure (in which the Rinaldis appeared and proceeded pro se) and there had been no assignment of the Rinaldis' mortgage to HSBC until after summary judgment was granted to HSBC in Kenosha County Circuit Court Case No. 2009CV000353. The endorsement on the Note suddenly appeared after the Rinaldis' bankruptcy case was filed and two (2) different assignments of the Rinaldis' mortgage, in addition to the assignment of mortgage which was created and filed post-summary judgment, were filed in the bankruptcy case, one of which was created and filed after the bankruptcy filing, in violation of provisions of 11 U.S.C. sec. 544, in an attempt to perfect the lien after the commencement of the bankruptcy case.

Each of the three (3) assignments of mortgage purportedly assigned the mortgage from Wells Fargo Bank, N.A. to HSBC Bank USA, N.A. in different identities. The bankruptcy court judge found that "defects in the transfer of the Note to the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust (or any similarly named entity) (the "Trust") do not render the Mortgage unenforceable, the Note invalid or the proof of claim fraudulent." The opposite is true: defects in the transfer of the Note render the Note unenforceable by the party to whom the transfer was "defective." See *Dow Family, LLC v. PHH Mortgage Corporation, et al.*, 2013 WI App 114, 838 N.W.2d 119, 350 Wis.2d 411 (Wis. App., 2013), decided on August 6, 2013, but was an appeal to the Wisconsin Supreme Court and was affirmed on July 10, 2014. Therefore, the law of the State of Wisconsin was not established by precedent until *after* the Rinaldis' initial brief on appeal was due to be filed on July 13, 2013. The Wisconsin Supreme Court's July 10, 2014 decision in *Dow Family, LLC v. PHH Mortgage*

Corporation, et al., 2014 WI 56, 354 Wis.2d 796, 848 N.W.2d 728 (Wis., 2014) was provided to the Seventh Circuit Court of Appeals as supplemental authority on September 7, 2014.

Paragraph 77(c) appears to be simply lifted verbatim from the decision of the United States District Court for the Eastern District of Wisconsin (Eastern Wisconsin District Court). There has been a clarification of Wisconsin law, based on new precedent in determining the proof necessary for the equitable assignment of a mortgage in Wisconsin. Since the sanction was entered, new precedent exonerates Respondent's legal argument for the Rinaldis and demonstrates the plain error committed by the Bankruptcy Court for the Eastern District of Wisconsin. Clearly, the Rinaldis had standing to challenge the enforcement of the Note signed by Roger Rinaldi. The pleading of paragraph 77 (c) violates SCR 20:3.1(a)(1) and is apparently lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

173. 77(d) is false and has been pleaded without a factual basis. As stated, above, Respondent did not represent the Rinaldis in state court. OLR never asked the Respondent what her litigation strategy in the Rinaldis' bankruptcy case was. The strategy was to allow the unsecured creditors, including the unsecured mortgage claimant, whomever that might be, to receive the proceeds of the Rinaldis' home and the adversary proceeding damages, in excess of the Rinaldis' exemptions, as clearly set forth in their Chapter 13 Plan. The Rinaldis' Chapter 13 Plan is a matter of public record and readily accessible at pacer.gov. The pleading of paragraph 77(d) violates SCR 20:3.1(a)(2) and is apparently lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

174. Paragraph 78 is without a legal basis. It is not an ethics violation to file for relief under Fed. R. Civ. P. 59(e). Fed. R. Civ. P. 59(e) allows for issues which have been adversely decided to be “repeated” in order to present manifest errors of fact or law, which is how Fed. R. Civ. P. 59(e) was used in the Rinaldis’ case. A motion under Fed. R. Civ. P. 59(e) must be filed within 14 days of the date of entry of the judgment to be reconsidered in order to stay the time for appeal. The pleading of paragraph 78 violates SCR 20:3.1(a)(1) and is apparently lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3.

175. Paragraphs 79-85 are mere recitations of procedural events and do not support charges of ethics violations pleaded as Counts Four and Five.

176. Paragraph 86 does not establish that Respondent knowingly brought the Rule 60(b) motion in violation of SCR 20:3.1(a). OLR ignores the discovery of new evidence in a case being tried in the United States Bankruptcy Court for the Southern District of New York in which the homeowner was successful on almost identical evidence. Respondent provided the decision in *In re Carssow-Franklin*, SBNY Case No. 10-20010 (RDD) dated January 29, 2015, which OLR has ignored. Instead, OLR appears to have relied on the legal position of Foshag and the lawyers from GRAY & ASSOCIATES to distinguish, without a substantive difference, the *Rinaldi, et al. v. HSBC Bank USA, N.A. as Trustee (for an incorrectly identified trust) et al. (In re Rinaldi)*, Adv. No. 12-2412, Case No. 11-35689, which is that there was a lower risk of fraud from the same actions taken by some of the same employees of Wells Fargo Bank, N.A. in *In re Carssow-Franklin* than in the Rinaldis’ case. That reasoning is absurd. The issue is not risk of fraud but actuality of fraud. There is no cause of action for risk of fraud and the Rinaldis alleged

violations of RICO and WOCCA because they, their counsel and the courts were, in fact, defrauded by the false documents created by Wells Fargo Bank, N.A. and used as evidence against them for the purpose of attempting to take their home.

177. The mere fact that the Seventh Circuit Court of Appeals did not reverse a discretionary act by the judge of the United States District Court for the Eastern District of Wisconsin (paragraph 89) does not support a violation of SCR 20:3.1(a), which requires clear and convincing evidence that Respondent knew that the motion based on newly discovered evidence which she obtained from the attorney who successfully defended the homeowner in *Carrsow-Franklin*, supra, was frivolous. That the Bankruptcy Court for the Southern District of New York ruled in favor of the homeowner shows that there was a good faith basis for bringing the same evidence to the attention of the United States District Court for the Eastern District of Wisconsin. The pleading of paragraph 86 violates SCR 20:3.1(a)(1) and is not just lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3, but demonstrates that OLR is acting to protect Foshag and his law firm from well-deserved investigation by bringing proceedings against the Respondent and is substantial evidence of selective and vindictive prosecution of Respondent by her litigation opponents, using the vehicle of OLR, and OLR is serving their interests.

178. Foshag's false pleadings that RFC was the **owner and holder** of the Notes and Mortgages of the Rinaldis, Ms. Spencer and the Respondent, Potteiger's ratification of the false pleadings in Respondent's case and his production of false evidence in Respondent's case, the production of false evidence in the cases of the Rinaldis and Ms. Spencer, as well as the

Respondent's was calculated to mislead homeowners, the courts and the public.

179. False pleadings, based on false documents, supported by falsely sworn Affidavits was not unusual in 2009, but was a ubiquitous practice not only by certain of the Wisconsin-licensed lawyers representing mortgage servicers, but also by lawyers representing mortgage servicers throughout the nation, which led to the National Mortgage Settlement,¹⁴ the Independent Foreclosure Review by the Office of the Comptroller of Currency and the Federal Reserve Board,¹⁵ the LPS-DOCX settlement (Exhibit 25), Ocwen Loan Services, LLC.¹⁶ Of particular note are the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual, Version 1, Revision 3*, which directed attorneys representing Wells Fargo Bank, N.A. to request the creation of documents for evidence in foreclosure actions as was done in the cases of *Ms. Carrow-Franklin* and the *Rinaldis* (Exhibit 26, pages 17-18, 20-23) and the instructions in the *Freddie Mac Sellers and Servicers Guide* Section 66.11, which its instructs mortgage servicing agents to commence foreclosure actions in their own name, without regard to the requirement that truthful pleadings be filed. (Exhibit 27)

180. Paragraph 90 is unsupported as a matter of law. Respondent had standing to appeal from the sanctions award against her and the favorable ruling in *Carrsow-Franklin*, supra, shows that the Rule 60(b) motion was brought in good faith. The pleading of paragraph 90 violates SCR 20:3.1(a)(1) and is not just lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and

¹⁴ <http://www.nationalmortgagesettlement.com/settlement-documents>

¹⁵ <https://independentforeclosurereview.com/Settled.aspx>

¹⁶ http://files.consumerfinance.gov/f/201312_cfpb_consent-order_ocwen.pdf

SCR 20:1.3.

181. There is no factual basis to support OLR's allegation in paragraph 91 that the relief she requested in the Rinaldis' case before the United States District Court for the Eastern District of Wisconsin on April 2, 2014 or the appeal were brought for purposes of delay in violation of SCR 20:3.2. The Rinaldis' bankruptcy had been dismissed on March 5, 2014, the automatic stay was terminated on March 5, 2014, no stay was sought pending appeal and the issues raised on April 2, 2014 were obviously meritorious because Ms. Carrsow-Franklin prevailed on the very same evidence which Respondent presented to the United States District Court for the Eastern District of Wisconsin, at a full and fair evidentiary hearing, which the Rinaldis were denied. The pleading of paragraph 91 violates SCR 20:3.1(a)(1) and is not just lacking in even the minimum amount of competence and diligence required of officers of the Supreme Court of Wisconsin, in violation of SCR 20:1.1 and SCR 20:1.3, but demonstrates that OLR is acting to protect Foshag and his law firm from well-deserved investigation by bringing proceedings against the Respondent.

182. OLR's pleadings are fraught with false factual allegations, knowingly or recklessly made to the extent that it is impossible to ascertain whether there is probable cause for OLR to charge her for any violation of the Wisconsin Code of Professional Conduct if the knowingly or recklessly false allegations were set aside. As the United States Supreme Court held in *Franks v. Delaware*, supra, at 171-172.

[I]f, when material that is the subject of the alleged falsity or reckless disregard is set to one side, there remains sufficient content . . . to support a finding of probable cause, no hearing is required. On the other hand, if the remaining content is insufficient, the defendant is entitled, under the . . . to his hearing. Whether he will prevail at that hearing is, of course, another issue.

183. There is no process by which the Respondent can be granted relief from false factual allegations in a complaint under the Wisconsin Rules of Civil Procedure. She would only be allowed to move to dismiss for failure to state a claim upon which relief may be granted under Wis. Stats. sec. 802.06(2)(b)6. if the entire Complaint, including the false factual allegations, failed to state a claim for relief or answer the Complaint and proceed to prove the falsity of the allegations. With the false allegations, the Complaint appears to state a claim for relief. Without the false allegations, which would, under the Wisconsin Rules of Civil Procedure, have to be refuted through an enormous expenditure of time and effort of many witnesses, traveling great distances at considerable expense, with the only remedy being an award of sanctions under Wis. Stats. sec. 802.05.

184. Civil actions and proceedings do not require probable cause for their initiation and there is no preliminary remedy for false charges which falsely appear to state a claim upon relief may be granted.

185. OLR's unethical conduct specified above is substantial evidence of the specified violations of SCR 20:1.1, SCR 20:1.3, SCR 20:3.1(a)(1) and (2), and/or SCR 20:3.3(a) and and supports a finding that OLR filed Nora #1 and now Nora #2 "when it is obvious that such an action would serve merely to harass or maliciously injure another," in violation of SCR 20:3.1(a)(3) on behalf of the false grievants Potteiger and Foshag.

186. The misconduct of OLR is designed to protect lawyers for mortgage servicers at the expense of an advocate for homeowners and to conceal OLR's own malfeasance for having entirely failed and refused to investigate grievances which present sufficient evidence for formal investigations and charges.

187. Potteiger and Foshag have recklessly or intentionally filed false grievances with the OLR because those false communications are privileged under SCR 21.19, which provides:

Privileges, immunity. Communications with the director, staff of the office of lawyer regulation, a district committee, a special investigator, retained counsel, the preliminary review committee, and a special preliminary review panel alleging attorney misconduct or medical incapacity and testimony given in an investigation or proceeding under SCR chapter 22 are privileged. No lawsuit predicated on these communications may be instituted against any grievant or witness. . .

188. OLR has filed knowingly false allegations in its Complaint because it believes that pursuant to SCR 21.19 grants it immunity from the damages it causes to targets of its reckless or intentional, frivolous filings under, but filing frivolous documents is not conduct in the course of OLR's official duties. SCR 21.19 provides, in relevant part:

. . . The director, staff of the office of lawyer regulation, members of a district committee, special investigators, retained counsel, members of the preliminary review committee, members of a special preliminary review panel, referees, members of the board of administrative oversight, and persons designated by the director to monitor compliance with diversion agreements or with conditions imposed on the attorney's practice of law, shall be immune from suit for any conduct in the course of their official duties.

189. Without conceding that the privilege set forth in SCR 21.19 should be extended to false allegations made knowingly or with reckless disregard for the truth , Respondent requests a *Franks* hearing to exclude the false statements made in the pending Complaint for a determination if, without the known and recklessly made false statements, probable cause to proceed on the statements admitted to be true exists.

190. Respondent, as an officer of this Court since June 9, 1975, understands her duty to fully cooperate with OLR, provided that it is acting in good faith to protect the public. All Respondent seeks by these Motions to respond to charges brought by OLR based on probable

cause to belief that she has violated the Wisconsin Code of Professional Conduct. If OLR had probable cause to bring the charges in the Complaint, it would not need to make false factual allegations to support the charges.

191. Respondent should not be required to respond to a Complaint in these quasi-criminal procedures in which true and false allegations of fact are intertwined to the extent that she cannot possibly defend herself against charges brought in large part on false factual allegations.

192. The *Franks* remedy would provide that the following false factual allegations be set aside: 4, 5, 6, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 23, 27, 30, 31, 34, 38, 43, 62, 63, 64, 67, 68, 69, 70, 71, 72, 74, 77(d), and 91. The legal conclusions must also be disregarded in determining whether probable cause may be found upon the remaining allegations.

193. If, after a *Franks* review of the Referee disregarding the following false factual allegations and legal conclusions, which is designed exactly for the purpose for which it is being requested, there is probable cause to believe that the Respondent has violated any Wisconsin Rule of Professional Conduct, she may be required answer and proceed to refute paragraphs 4, 5, 6, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 23, 27, 30, 31, 34, 38, 43, 62, 63, 64, 67, 68, 69, 70, 71, 72, 74, 77(d), and 91 of the Complaint, subject to her Motion to Dismiss for Selective and Vindictive Prosecution, which is must also be heard on the foregoing sufficient evidentiary showing.

194. If, upon setting aside paragraphs 4, 5, 6, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 23, 27, 30, 31, 34, 38, 43, 62, 63, 64, 67, 68, 69, 70, 71, 72, 74, 77(d), and 91 and the legal conclusions in the Complaint, the Referee finds that there is no probable cause to require the Respondent to answer the charges set forth in the Complaint, OLR's Complaint should be dismissed.

195. The evidentiary hearing for the *Franks* remedy and the Motion to Dismiss for Selective and Vindictive Prosecution involve many of the same factual issues and may be heard in a single evidentiary hearing.

196. In the alternative, should the Court not be willing to expand the application of the *Franks* remedy to lawyer disciplinary proceedings and/or should it conclude that the defense of selective and vindictive prosecution by OLR is not available to lawyers who are subjected to the kind of misconduct by OLR sought to be exposed herein, in the law applicable to civil proceedings in the State of Wisconsin, this Court has long recognized the judicial authority to dismiss actions and proceedings brought in bad faith, without a basis in fact or law, on knowing false allegations or allegations made with reckless disregard for the truth. *Schultz, et al. v. Sykes, et al.*, 2001 WI App 255 at ¶9, 248 Wis.2d 746, 638 N.W.2d 604 (2001) citing *Johnson v. Allis Chalmers Corp.*, 162 Wis. 2d 261, 273-274, 470 N.W.2d 859 (1991); 273-74; *Hudson Diesel, Inc. v. Kenall*, 194 Wis. 2d 531, 543, 535 N.W.2d 65 (Ct. App. 1995). “ Cf. *Chevron Chemical Co. v. Deloitte & Touche*, 176 Wis. 2d 935, 946, 501 N.W.2d 15 (1993) (court has authority to enter default judgment as a sanction). Because dismissal is such a harsh sanction, however, the supreme court has held that dismissal is proper only when the plaintiff has acted in bad faith or has engaged in egregious misconduct. *Johnson*, 162 Wis. 2d at 275.”

197. In *Sykes*, supra, at ¶ 11, the Wisconsin Court of Appeals held:

¶ 11. The supreme court recently discussed the scope of courts’ inherent powers in *City of Sun Prairie v. Davis*, 226 Wis. 2d 738, 595 N.W.2d 635 (1999). In *Davis* the court stated that inherent powers are those “which must necessarily be used to enable the judiciary to accomplish its constitutionally or legislatively mandated functions.” *Id.* at 747 (internal quotations omitted). Therefore, they include those powers that courts need to “maintain their dignity, transact their business, [or] accomplish the purposes of their existence.” *Id.* at 748 (internal quotations omitted).

198. Respondent has considerably more supporting documentary evidence to present to the Referee, along with witnesses, at the requested evidentiary hearing than that which has been produced herein, but, for the sake of brevity, balanced against the need for sufficient detail to meet her preliminary burden, she has chosen the documentary evidence to support the preliminary factual allegations which she believes provides a sufficient preliminary showing that the Court should provide the *Franks* remedy in these quasi-criminal proceedings and further or in the alternative that she be provided with an evidentiary hearing on her Motion to Dismiss these proceedings for selective and vindictive prosecution and/or as a sanction for the bad faith prosecution of these proceedings and the proceedings in Nora #1.

CONCLUSION

Respondent has made a substantial preliminary evidentiary showing that OLR has pleaded false factual allegations in paragraphs 4, 5, 6, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 23, 27, 30, 31, 34, 38, 43, 62, 63, 64, 67, 68, 69, 70, 71, 72, 74, 77(d), and 91, knowingly or with reckless disregard for the truth. She has made a sufficient preliminary evidentiary showing that these proceedings, following upon the proceedings in Nora #1, have been brought for the benefit of Respondent's litigation opponents who represented mortgage servicers and made material misrepresentations of fact and law by pleading that the mortgage servicers were the **owners and holders** of Notes and Mortgages, intentionally or with reckless disregard for the truth in violation of SCR 3.3(a) and have never withdrawn their material misrepresentations, even in the face of their own contradictory evidence.

WHEREFORE, Respondent respectfully requests the *Franks* remedy adopted by the

knowingly made or made with reckless disregard for the truth, Respondent requests an evidentiary hearing on her Motion to Dismiss for Selective and Vindictive Prosecution based on her sufficient showing in support thereof. In the event that the probable cause does not appear on the basis of the remaining allegations in the Complaint, setting aside paragraphs 4, 5, 6, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 23, 27, 30, 31, 34, 38, 43, 62, 63, 64, 67, 68, 69, 70, 71, 72, 74, 77(d), and 91 and the legal conclusions contained therein, the Complaint must be dismissed.

Dated at Madison, Wisconsin this 22nd day of December, 2015.

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FORCE AND EFFECT AS THE ORIGINAL

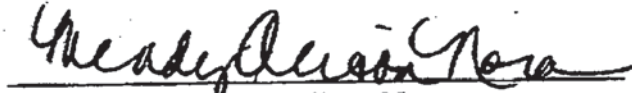


Wendy Alison Nora
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VERIFICATION

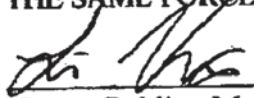
Wendy Alison Nora, being first duly sworn on oath, deposes and says that the facts set forth in the foregoing Motions are true and correct to the best of her knowledge, information and belief and that Exhibits 1-27 attached hereto are true and correct copies of what they purport to be.

IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME
FORCE AND EFFECT AS THE ORIGINAL


Wendy Alison Nora

Subscribed and sworn to before
me this 22nd day of December, 2015.

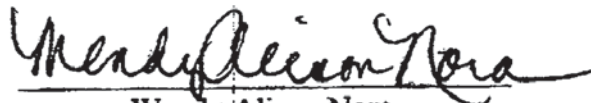
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THE SAME FORCE AND EFFECT AS THE ORIGINAL

 on 05/06/2016 
Notary Public. My commission is permanent.

**DECLARATION OF SERVICE**

Wendy Alison Nora declares that she filed the original and nine (9) copies of the foregoing Notice of Motion and Motion to Dismiss and the Appendix of Exhibits and Appendix Exhibits 1-27 with the Clerk of Appellate Courts, and caused true and correct copies thereof to be served on Attorney Sheryl St. Ores at the Office of Lawyer Regulation by hand-delivery on December 22, 2015.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME
FORCE AND EFFECT AS THE ORIGINAL


Wendy Alison Nora

APPENDIX F

STATE OF WISCONSIN

IN THE SUPREME COURT

In re the Matter of the Disciplinary Proceedings
 Against Wendy Alison Nora,
 Attorney at Law

Case Code: 30912

 Office of Lawyer Regulation,
 Complainant

Case No. 2015AP002442-D

v.

Wendy Alison Nora,
 Respondent

NOTICE OF MOTION AND MOTION FOR SANCTIONS
 PURSUANT TO WIS. STATS. SEC. 802.05

TO: The Clerk of Appellate Courts

and to the attention of

Qualified Referee to be appointed upon recusal of Lisa C. Goldman for actual bias and complicity in the scheme of Grievant-Witness Attorney David M. Potteiger and OLR Assistant Litigation Counsel Sheryl St. Ores to defraud the Respondent and the Supreme Court of Wisconsin by producing false evidence against the Respondent in these proceedings
 cc: Referee Lisa C. Goldman to be disqualified for actual bias, for informational purposes only

PLEASE TAKE NOTICE that the undersigned will bring her Motion for Sanctions

Pursuant to Wis. Stats. sec. 802.05(3)(a) against Attorney Sheryl St. Ores, Director Keith Sellen and the Office of Lawyer Regulation (collectively, OLR) on for hearing before the Wisconsin Supreme Court at a time and place to be set by the Court.

NOW COMES the Respondent, Wendy Alison Nora, and respectfully moves the Court to award sanctions against Attorney Sheryl St. Ores, Director Keith Sellen (Director Sellen) and the Office of Lawyer Regulation (collectively, OLR) pursuant to Wis. Stats. sec. 802.05(3)(a) for the filing and service of the Complaint dated November 30, 2015, without a legal or factual basis

and for the improper purposes of concealing the failure of OLR to investigate the misconduct of attorneys representing mortgage servicers, who have filed false pleadings, based on false documents, supported by falsely sworn Affidavits in hundreds of foreclosure cases filed in the State of Wisconsin since at least 2003. In support of this Motion, Respondent shows the Court:

1. This is the second Complaint filed over the signature of Attorney Sheryl St. Ores (St. Ores), as Assistant Litigation Counsel for the Office of Lawyer Regulation, under the supervision and direction of Attorney Keith Sellen, Director of the Office of Lawyer Regulation (Director Sellen), based on an investigation conducted by Attorney Travis Stieren (Stieren), using the resources of the staff of the Office of Lawyer Regulation.

2. Because it is her duty to comply with investigative inquiries from the Office of Lawyer Regulation pursuant to SCR 21:15(4), Respondent has spent a substantial amount of time and expense providing detailed documentation and explanation of the legal positions she has taken on behalf of homeowners in the State of Wisconsin since early, 2011.

3. A grievance was filed by one of Respondent's litigation opponents, Attorney David M. Potteiger (Potteiger), dated December 8, 2010 and filed on December 10, 2010.

4. The Potteiger grievance which initiated the investigation into the legal positions of the Respondent has been thoroughly examined and detailed in Respondent's December 22, 2012 Verified Motion for Franks Hearing on Probable Cause and Alternative Motion to Dismiss the Complaint for Selective and Vindictive Prosecution (the Verified Motion), filed in these proceedings, at paragraphs 4-15. The December 22, 2012 Verified Motion to Dismiss, along with the judicially noticeable publicly recorded documents in support thereof, are incorporated by reference as if fully set forth herein.

5. An investigation conducted by the District 9 Investigator, Attorney Robert Kasieta (Kasieta) in early, 2012, which consisted of meeting with Potteiger at the offices of Potteiger's employer, BASS & MOGLOWSKY, S.C. (BASS), where Potteiger and Attorney Steven W. Moglowsky provided information to Kasieta, from their files in the litigation matters involving Respondent's former Homestead in Dane County, Wisconsin. In the litigation files, unsealed and unprotected, were confidential medical records concerning the Respondent's medical condition related to complications of an underlying medical condition resulting from an automobile accident which occurred on April 14, 2009.

6. Kasieta cancelled the interview with Respondent set to be held in February, 2012 and informed her that the investigators had all the information they needed, despite Respondent urging Kasieta that she was ready, willing and able to address the medical condition which Potteiger had used as the foundation of his grievance.

7. Were it not for the failure of the Dane County Circuit Court and the United States District Court for the Western District of Wisconsin to provide constitutionally-mandated protections to persons eligible for accommodations under the Americans with Disabilities Act as Amended (ADAAA) effective January 1, 2009, Potteiger would not have come into possession of Respondent's medical records and re-disclose them in an effort to injure the Respondent.

8. The first disciplinary Complaint was filed as *Office of Lawyer Regulation v. Nora* on March 20, 2013 as Case No. 2013AP000653-D (Nora #1).

9. Nora #1 pleaded three (3) Counts, all of which are based on the Potteiger grievance but none of which have any basis in fact or law, as fully set forth in the December 22, 2015 Verified Motion, incorporated by reference as if fully set forth herein.

8. The Complaint in this matter was filed as *Office of Lawyer Regulation v. Nora* on March 20, 2013 as Case No. 2013AP000653-D (Nora #1).

9. Nora #1 pleaded three (3) Counts, all of which are based on the Potteiger grievance but none of which have any basis in fact or law, as fully set forth in the December 22, 2015 Verified Motion, paragraphs 11-16, incorporated by reference as if fully set forth herein.

10. On December 23, 2013, OLR filed an Amended Complaint, to which it added Count Four, based on the grievance of Potteiger's co-counsel and co-conspirator in the scheme to defraud the Respondent and the Dane County Circuit Court in Case No. 2009CV001096, N. William Foshag (Foshag) of GRAY & ASSOCIATES, using false pleadings, based on forged documents, supported by falsely sworn affidavits. (See Verified Motion paragraphs 77-70, 88-92, 95, 98, 99-101, 104 and Appendix Exhibits 3, 4, 14, 15, 16, 17, 18, 19, and 26.)

10. Respondent followed the Wisconsin Rules of Civil Procedure in Nora #1, but OLR and the Referee did not. (See Motion to Disqualify Referee Lisa C. Goldman, filed on January 4, 2016 and with the Verified December 22, 2015 Motion at paragraphs 16, 42, 43, 44, 46, 47, 50, 51, 66, 67, and 69, along with the documentary support thereof, incorporated by reference as if fully set forth herein.)

11. After Referee Goldman disregarded the evidence of Potteiger's falsely sworn Affidavit and the fabricated documentary evidence he presented therewith by changing the nature of the charge in Count Two of Nora #1 to make it appear that false swearing to the validity of false evidence, created for purposes of these disciplinary proceedings was not pertinent to Respondent's June 9, 2015 Motion for Relief from the Referee's Decision and Order of May 20, 2015, it was becoming clear that the Wisconsin Rules of Civil Procedure provided inadequate

required to be presented therewith.

16. The Referee, for a second time,¹ refused to consider or rule on Respondent's Opposition to OLR's improper practices (the first being Motion to Strike materials filed outside the four corners of the Complaint filed by the Respondent on May 8, 2014), this time refusing to acknowledge the filing of the Motion to Strike and pretending that the alternative argument on the substantive merits was all that was before her for consideration,² when OLR was the moving party and was required, pursuant to Wis. Stats. sec. 802.01(2) to set forth the specific grounds for the Motion.

17. Moreover, OLR has made repeated requests for explanation of the legal positions taken by the Respondent in homeowner defense litigation which OLR has either disregarded or has been unable to comprehend. Whether by lack of ability to understand the complex legal issues pertaining to homeowner defense litigation, which is unlikely because Respondent has provided OLR with extensive information in connection with multiple "inquiries" from OLR, through its investigator, Attorney Travis Stieren (Stieren), and she has provided OLR with vast resources of statutory and case law authority in support of her legal positions. Stieren and St. Ores are either lacking the minimal competence required to comprehend Respondent's legal positions (in violation of SCR 20:1.1) or is disregarding the legal authority provided (in violation of SCR 20:1.3) and, if so, OLR is deliberating disregarding the legal authority upon which

¹ The first Motion to Strike, which was never considered or decided, was filed on May 8, 2014. See Amended Verified Motion to Disqualify Referee Lisa C. Goldman, attached hereto as Exhibit 2, pages 18-19.

² See Respondent's Opposition to OLR's Notice of Filing of Second Amended Complaint filed on October 15, 2015 and the Decision and Order of Referee Lisa C. Goldman dated November 16, 2015.

Respondent relies in homeowner defense cases in violation of SCR 3.1(a)(2).

18. On November 30, 2015, the offending Complaint was filed commencing this case.

19. On December 2, 2015, Respondent was served with the offending Complaint.

20. On December 3, 2015, Respondent served her Motion for Sanctions pursuant to Wis. Stats. sec. 802.05(3)(a) on OLR via facsimile, a true and correct copy thereof is attached hereto³ as Exhibit 1.

21. OLR has not corrected the 32 false allegations of fact set forth in Complaint in these proceedings, which were pleaded in reckless or deliberate disregard of the Wisconsin Rules of Professional Conduct after St. Ores and Director Sellen were provided with safe harbor notice in this matter in the attached Motion for Sanctions, pursuant to Wis. Stats. sec. 802.05(3)(a) (Exhibit 1).

22. On December 22, 2015, Respondent served her Verified Motion on OLR by hand-delivery, having simultaneously caused the delivery of nine (9) identical copies thereof to the Court.

23. The December 22, 2015 Verified Motion in these proceedings recites facts of which OLR has long been aware or should have been long aware and which OLR recklessly disregarded in filing the substantially false November 30, 2015 Complaint, amounting to more than one third (1/3) of the paragraphs pleaded therein, specifically paragraphs: 4, 5, 6, 8, 9, 10, 11, 13, 17, 18,

³ There is a typographical error in paragraph 25 at 3., which should have read:

3. *PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC.*

Paragraph 25 at 2. correctly read:

2. *PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank* and was accidentally repeated at 25. at 3.

19, 20, 21, 23, 27, 30, 31, 34, 38, 43, 62, 63, 64, 67, 68, 69, 70, 71, 72, 74, 77(d), and 91.

24. Twenty-one (21) days have expired since the service of the December 3, 2015 Motion for Sanctions Pursuant to Wis. Stats. sec. 802.05(3)(a), but OLR has not withdrawn the offending Complaint (Exhibit 3).

25. The safe harbor period provided to OLR on December 3, 2015 has now expired and Respondent is entitled to be heard on her Motion for Sanctions Pursuant to Wis. Stats. sec. 802.05(3)(a) in the course of these proceedings.

26. Respondent will prove, in proceedings before an unbiased Referee to be appointed by this Court, that OLR is not acting as the independently as the investigative and prosecutorial office of the Wisconsin Supreme Court designed to protect the public, but is almost exclusively relying on a false narrative constructed by the Respondent's litigation opponents, Potteiger, and co-counsel with BASS, Attorney N. William Foshag (Foshag) of Gray & Associates, LLP (GRAY), who have a personal interest in suppressing the an investigation into their own misconduct for ethics violations which have been exposed in the Respondent's December 22, 2015 Verified Motion.

27. At the conclusion of these proceedings, Respondent requests that she be awarded the hourly rate for services she provides clients with the ability to pay, which is \$250.00 per hour, which includes her costs, against OLR, along with her reasonable expenses incurred in defense of the known or recklessly false Complaint filed in these proceedings.

28. As has been shown and will be further shown in these proceedings, sanctions are necessary because the conduct of Attorney St. Ores, on behalf of Director Sellen and the Office of Lawyer Regulation (OLR) violates the minimum standards of pleading and practice required

by the Wisconsin Rules of Civil Procedure at Wis. Stats. sec. 802.05(2)(a), (b) and (c) and the Wisconsin Code of Professional Conduct at SCR 20:1.1, SCR 1.3, SCR 20:3.1(a)(1), (2) and (3) and SCR 20:3.3(a)(1) as specifically set forth in the Verified Motion.

WHEREFORE, the Respondent moves the Court for sanctions against OLR in the amount of her reasonable hourly rate for her services for the time she has spent responding to OLR's Complaint filed in violation of Wis. Stats. sec. 802.05(2)(a), (b) and (c), as specifically alleged in the attached Motion (Exhibit) and for prosecuting this Motion for Sanctions, as well as her reasonable expenses incurred for her defense of the 32 false factual allegations and the misrepresentations of law contained therein. She request such further and additional sanctions as the Court may deem necessary to deter similar conduct by OLR in the future, by which OLR will be required to comply with the Wisconsin Rules of Civil Procedure, Code of Professional Conduct, and to provide its targets with procedural due process guaranteed by the Fourteenth Amendment to the *Constitution of the United States*.

Dated at Minneapolis, Minnesota this 5th day of January, 2016.


 Wendy Alison Nora
 ACCESS LEGAL SERVICES
 310 Fourth Avenue South, Suite 5010
 Minneapolis, Minnesota 55415
 VOICE (612) 333-4144
 FAX (612) 206-3170
 accesslegalservices@gmail.com
 Wisconsin Attorney ID #1017043

DECLARATION OF SERVICE

Wendy Alison Nora declares that she caused true and correct copies of the foregoing Notice of Motion and Motion for Sanctions and true and correct copies of Exhibit 1 upon OLR Assistant Litigation Counsel Sheryl St. Ores by hand-delivery on January 5, 2016.

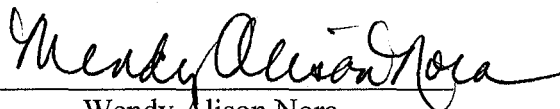

Wendy Alison Nora

EXHIBIT 1

STATE OF WISCONSIN

IN THE SUPREME COURT

In re the Matter of the Disciplinary Proceedings
 Against Wendy Alison Nora,
 Attorney at Law

Case Code: 30912

 Office of Lawyer Regulation,
 Complainant

Case No. 2015AP002442-D

v.

Wendy Alison Nora,
 Respondent

NOTICE OF MOTION AND MOTION FOR SANCTIONS
 PURSUANT TO WIS. STATS. SEC. 802.05

PLEASE TAKE NOTICE that the undersigned will bring her Motion for Sanctions Pursuant to Wis. Stats. sec. 802.05(3)(a) against Attorney Sheryl St. Ores, Director Keith Sellen and the Office of Lawyer Regulation (collectively, OLR) on for hearing before the Wisconsin Supreme Court at a time and place to be set by the Court, unless, within 21 days after the service of this Motion, you withdraw the Complaint filed on November 30, 2015 in violation of Wis. Stats. secs. 802.05(2)(b) and (c) for the improper purposes prohibited by Wis. Stats. sec. 802.05(2)(a).

NOW COMES the Respondent, Wendy Alison Nora, and respectfully moves the Court to award sanctions against Attorney Sheryl St. Ores, Director Keith Sellen and the Office of Lawyer Regulation (collectively, OLR) pursuant to Wis. Stats. sec. 802.05(3)(a) for the filing and service of the Complaint dated November 30, 2015, without a legal or factual basis and for the improper purposes of concealing the failure of OLR to investigate the misconduct of attorneys

representing mortgage servicers, who have filed false pleadings, based on false documents, supported by falsely sworn Affidavits in hundreds of foreclosure cases filed in the State of Wisconsin since at least 2003.

1. Sanctions are necessary because the conduct of Attorney St. Ores, on behalf of Director Sellen and the Office of Lawyer Regulation (OLR) violates the minimum standards of pleading and practice required by the Wisconsin Rules of Civil Procedure and the Wisconsin Code of Professional Conduct at SCR 20:3.1 and SCR 20:3.3(a).

2. Paragraph 4 of the Complaint is a legal impossibility and is pleaded without a basis in fact or law.

3. Paragraph 5 of the Complaint is false and has been pleaded without a factual basis.

4. Paragraph 6 of the Complaint is false as to the date of filing of the foreclosure Complaint, the name of the case and the case number. Paragraph 6 is pleaded without a basis in fact.

5. Paragraph 8 of the Complaint is false and has been pleaded without a factual basis.

6. Paragraph 9 of the Complaint falsely implies that it is unethical to require an entity seeking to foreclose on Wisconsin real estate establish that it has the legal right to do so.

7. Paragraph 10 of the Complaint is a misstatement. The Court allowed *PNC Bank, N.A.*, successor by merger to *National City Bank*, successor by merger to *National City Bank of Indiana*, a division of which was *FNMC* to appear as the plaintiff in the action on December 21, 2012.

11. Paragraph 11 of the Complaint is a misstatement and falsely implies that it is unethical to raise issue of civil fraud and racketeering in defense of the property rights of a

Wisconsin citizen.

13. Paragraph 13 of the Complaint is a mischaracterization of the proceedings on May 23, 2012. On May 23, 2012, the Court indicated that there were numerous issues which needed to be addressed and allowed Respondent to make a list of the issues. There is a complete Transcript of the proceedings on May 23, 2012 presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

14. Paragraph 17 of the Complaint is false as a matter of law. The scheduling order is not a final order. As a matter of fact, Respondent eventually obtained a copy of the scheduling order directly from the Court by having her client retrieve it from the Office of the Clerk of the Wood County Circuit Court. It is true that Gray & Associates, LLP did not send a signed copy of Order dated June 12, 2012 to the Respondent. The entire record of the proceedings in Wood County Circuit Court Case No. 09-CV-283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

15. Paragraph 18 of the Complaint is false. Respondent did not take the position that Judge Potter was required to send a copy of the June 12, 2012 Order to the Respondent. She took the position that an employee of the Wood County Clerk of Circuit Court refused to provide her with a copy of the June 12, 2012 Order upon her verbal, telephonic request. Paragraph 18 falsely implies that Respondent is ethically precluded from raising the issue that Gray & Associates, LLP did not send a copy of the signed Order of June 12, 2012 to the Respondent, when it is the expectation of the Court that the party obtaining an Order will serve a copy of the

Order on opposing counsel. The entire record of the proceedings in Wood County Circuit Court Case No. 09-CV-283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

16. Paragraph 19 of the Complaint is false. The issue of ex parte communications occurring before Respondent represented Ms. Spencer and while Ms. Spencer was appearing pro se involved Gray & Associates, LLP scheduling a summary judgment hearing on March 31, 2010 with a hearing date of March 31, 2010; creating two (2) different letters dated February 17, 2011 and serving one on Ms. Spencer and filing a different version with the Court, preventing Ms. Spencer from being informed of an “Affidavit issue” which required the Plaintiff to cancel the Sheriff’s Sale (to wit, the Affidavit of Mendy Munday dated November 25, 2009 in which Ms. Munday falsely swore, on personal knowledge, that *PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank* was the “current owner and holder of the Note and Mortgage”); there is no “letter” dated June 20, 2011, but there is an Order Vacating Summary Judgment dated on June 20, 2011 (a Sunday), which was entered without notice and hearing being provided to Ms. Spencer. The entire record of the proceedings in Wood County Circuit Court Case No. 09-CV-283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

17. Paragraph 20 of the Complaint is false. The March 31, 2010 filing was not a letter, but was a Motion for Summary Judgment which was dated March 31, 2010 and scheduled the hearing for the same day. Ms. Spencer never claimed that she did not receive the March 31, 2010 Motion for Summary Judgment which was mailed to her on March 31, 2010. Ms.

Spencer's position was that, by the time she received the Motion for Summary Judgment dated March 31, 2010 and setting hearing on the Motion for March 31, 2010, the date set for the hearing had already passed. She was not informed of a new date by which she would be allowed to respond to the Motion for Summary Judgment. The Order granting Summary Judgment was entered on April 19, 2010, less than the 20 days after the date of mailing of the Motion for Summary Judgment. The April 19, 2010 Order granting Summary Judgment was entered without notice and opportunity for Ms. Spencer to be heard. The entire record of the proceedings in Wood County Circuit Court Case No. 09-CV-283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

18. Paragraph 21 of the Complaint is false. See paragraph 16, above. There were two (2) letters dated February 17, 2011 of which one version was sent to the Court and one version was sent to Ms. Spencer. There is no "letter" of June 20, 2011. There is an Order dated June 20, 2011 (a Sunday) which was never sent to Ms. Spencer. The entire record of the proceedings in Wood County Circuit Court Case No. 09-CV-283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

19. Paragraph 23 of the Complaint is false insofar as it collapses the time frame between the date of receipt of the Transcript of the May 23, 2012 proceedings and the date of discovery that page 3 of the Transcript was missing. As soon as possible after it was discovered by Ms. Spencer's direct inspection of the Court record that the copy of the Transcript sent to Respondent was sent without page 3 being included, Respondent corrected the record to state that there had

apparently been a collating error on November 2, 2012. The incomplete Transcript was received by Respondent on July 16, 2012 and Ms. Spencer discovered the missing page 3 in the Court record by direct inspection and sent the missing page 3 to Respondent on October 30, 2012. The entire record of the proceedings in Wood County Circuit Court Case No. 09-CV-283 is presently located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin, which OLR has apparently failed to locate or review.

20. Paragraph 26 of the Complaint is false insofar as it suggests that an incomplete copy of a Transcript does not prejudice the party relying on the Transcript. Such a suggestion is not based on existing law or a good faith argument for modification or extension of existing law.

21. Paragraph 27 of the Complaint is false. Respondent never claimed that Judge Potter and the court clerk intentionally manipulated the court record. Respondent's exact words related to the flawed Transcript of the proceedings on May 23, 2012 are

17. It is unthinkable but unavoidable to consider that Judge Potter and/or the court reporter edited the Transcript of the hearing on May 23, 2012 to make it appear that Judge Potter was less biased than he is . . .

Respondent did not state claim that Judge Potter and the court clerk intentionally manipulated the court record. Rather, she stated that it was unthinkable but unavoidable to consider the possibility that Judge Potter and/or the court reporter edited the Transcript of the hearing. The missing page 3 was later discovered in the court record, Respondent received page 3 on October 30, 2012 from Ms. Spencer who discovered the page in the court record and the Respondent filed a Notice of Correction dated November 2, 2012 promptly thereafter as required by SCR 20:3.3(a). The true facts, known to OLR by reason of its pleading of paragraph 28, show that Respondent engaged in ethical conduct by complying with SCR 20:3.3(a).

22. Paragraph 29 falsely suggests that an attorney cannot ethically move for the disqualification of a judge. Paragraph 29 is not based on existing law or a good faith argument for the modification or extension of existing law.

23. Paragraph 30 is false insofar as it states that Respondent accused the judge, opposing counsel and court personnel of manipulating the record in her Motion to Disqualify Judge Potter dated July 23, 2012. That Motion speaks for itself and the allegations are supported by multiple facts in the record.

24. Paragraph 31 is false insofar as it suggests that a written order was entered denying the Motion for Disqualification of Judge Potter. The Transcript of the proceedings on August 8, 2012 speaks for itself. The entire record of the proceedings in Wood County Circuit Court Case No. 09-CV-283 has been located one floor below the Office of Lawyer Regulation in the Tenney Building in Madison, Wisconsin since January 2, 2015. OLR has apparently failed to review the Transcript of the August 8, 2012 hearing on the Motion to Disqualify Judge Potter.

25. Paragraph 32 is baseless as a matter of law. No “motion” to remove the Spencer case to federal court was ever filed because that is not the procedure for removal. The procedure for removal is set forth at 28 U.S.C. sec. 1446 and involves the filing of a Notice of Removal.

26. Paragraph 34 is unsupported by facts or law. In order to support removal and defend against remand, it is necessary to provide the federal court with the factual basis for the removal. Demonstrating the Plaintiff identified in the proceedings in state court is a sham party is fundamental to support the concealment of the existence of federal jurisdiction. Each of the following, successively-named Plaintiffs in the Spencer case are sham Plaintiffs:

1. *FNMC, a division of National City Bank of Indiana nka National City Bank*

2. *PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank*

3. *PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank*

The use of the term “sham” as applied to parties is standard in removal actions. See

De-Frauding the System: Sham Plaintiffs and the Fraudulent Joinder Doctrine, Matthew C.

Monahan, Michigan Law Review, Vol. 110:1341. It is routine cases removed after 30 days from

the commencement of the state court action to provide evidence that the grounds for removal

were discovered after 30 days following the commencement of the state court action that the

grounds for federal jurisdiction were concealed. The term “sham” is routinely to describe

plaintiffs efforts to defraud the system by preventing the exercise of federal jurisdiction, as

explained in *De-Frauding the System: Sham Plaintiffs and the Fraudulent Joinder Doctrine*.

There is nothing unethical about using standard language in an argument for the existence of federal jurisdiction.

27. Paragraph 35 is unsupported by existing law. The federal district court remanded the Spencer case to the Wood County Circuit Court. The federal district court had to have jurisdiction over the case before it could remand the case. The federal district court did not hold that “federal jurisdiction did not attach to the Spencer case.” The federal district court had jurisdiction over the Spencer case until it was remanded to the Wood County Circuit Court and it retained *jurisdiction* to award attorneys’ fees for what is known as “improvident removal.” It held that it no longer had *jurisdiction* once it entered the remand order. Paragraph 35 is not based on existing law or a good faith argument for modification or extension of existing law.

28. Paragraph 38 is false as a matter of fact. The Second Motion for Reconsideration of

the Award of Attorneys' Fees was not "summarily denied."

29. Paragraph 42 is unsupported by existing law. Part of the body of defamation law is an action for invasion of privacy. Publication of confidential medical records, filed under seal, is invasion of privacy, which is a species of defamation. The medical records were in writing and their publication was, therefore, libelous. Respondent is not required to show that her confidential medical information is untrue in order to support an allegation that the publication of those records was libelous as an invasion of privacy.

30. Paragraph 43 is not supported by any facts. The purpose of the allegation of libel was to establish Respondent's standing to appeal from Judge Crabb's decision in her own name. Her alternative would have been to file a Petition for Writ of Mandamus. Respondent was seeking to modify or extend the law of the Seventh Circuit to allow an attorney to directly appeal from judicial criticism, which is allowed in other circuits.

31. Paragraphs 44-60 contain mere recitations and do not provide any specific facts to support the conclusion that Respondent knowingly violated any subsection of SCR 20:3.1(a).

32. Paragraph 61 is unsupported by facts or law because it is not based on any facts that Respondent knowingly violated SCR 20:3.1(a).

33. Paragraph 62 is unsupported by facts that Respondent violated SCR 20:3.2. The allegation that Respondent engaged in an ongoing pattern of conduct to "harass other parties and judicial officers," except paragraphs identified above as being false. There is no evidence that Respondent was seeking to delay the Spencer case. There is only a suspicion by a panel of Seventh Circuit Court of Appeals which wrote that they "*suspect* that the removal was part of a strategy to gum up the progress of the case." Suspicions are not evidence and do not even rise to

the level of probable cause.

33. Paragraph 63 is unsupported by facts that the Respondent violated her oath. To the contrary, there is substantial evidence consisting of hundreds of pages of documents which Respondent presented to OLR which shows that Respondent is upholding her oath which provides:

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.

There is no evidence that Respondent is seeking personal gain nor is there any evidence that she is acting maliciously toward any person. She is, however, undertaking the cause of the defenseless and oppressed.

34. Specifically, having been informed that the Respondent did not represent Roger and Desa Rinaldi in the Kenosha County Circuit Court foreclosure case (Case No. 09-CV-353), OLR falsely accuses Respondent of representing the Rinaldis in that action in paragraphs 67 and 68 of the Complaint. OLR falsely accuses the Respondent of not appealing summary judgment in Kenosha County Circuit Court Case No. 09-CV-353 when she did not represent the Rinaldis in that action. Simple recourse to the Wisconsin Circuit Court Access Program would conclusively demonstrate that Respondent never represented the Rinaldis in that case. There is no factual basis for paragraphs 67 and 68 of the Complaint.

35. Paragraph 69 is false insofar as it suggests that Respondent was in any way involved in the loan modification agreement between HSBC Bank USA, N.A. (HSBC) and the Rinaldis. Paragraph 69 relates to the proceedings in Kenosha County Circuit Court Case No. 09-CV-353 and Respondent never represented the Rinaldis in that action. Again, recourse to the Wisconsin

Circuit Court Access Program would conclusively demonstrate that Respondent never represented the Rinaldis in that case. There is no factual basis for paragraph 69 of the Complaint.

36. Paragraph 70 is false as a matter of fact. Again, recourse to the Wisconsin Circuit Court Access Program would conclusively demonstrate that Respondent did not file a new state lawsuit, “reasserting the Rinaldis’ counterclaims against the same parties.” The case to which OLR is attempting to refer is Kenosha County Circuit Court Case No. 11-CV-1477. The Rinaldis commenced that action pro se on June 10, 2011. Respondent and co-counsel, Kim Andrew Lewis, appeared in the action in August, 2011 and moved to dismiss the case without prejudice for improper service. Simple recourse to the Wisconsin Circuit Court Access Program would demonstrate that Respondent did not file the action. When she appeared with co-counsel, they only sought to dismiss the action without prejudice for improper service of process. There is no factual basis for paragraph 70 of the Complaint.

37. Paragraph 71 is pleaded without a factual basis and contains a false inference. Respondent was not representing the Rinaldis when the defendants moved to dismiss the Complaint in Case No. 11-CV-1477. Simple recourse to the Wisconsin Circuit Court Access Program would demonstrate that Respondent and her co-counsel agreed with the defendants that service of process was improper because the pro se Plaintiffs had not served authenticated copies of the Summons and Complaint. A dispute arose solely because the defendants responded to the Rinaldis’ newly appearing counsels’ agreement that service of process was improper and sought to dismiss the action without prejudice and the defendants responded by seeking dismissal with prejudice. There is no factual basis for pleading paragraph 71 of the Complaint as evidence of

an ethics violation by the Respondent because she and her co-counsel properly sought to dismiss the action for improper service of process.

39. Paragraph 72 is false and OLR should have known that paragraph 72 is false.

Respondent did not file the Rinaldis' bankruptcy in the Eastern District of Wisconsin as Case No. 11-35689. Simple recourse to pacer.gov would have shown OLR that the Rinaldis' bankruptcy case was filed by Attorney Jay Nixon of Racine, Wisconsin on October 14, 2011. Paragraph 72 is pleaded without a factual basis.

40. Paragraph 74 is, again, false, insofar as it alleges that Respondent "filed adversary claims against the parties she had counter-claimed against in the state action." OLR should have known that Respondent did not file counterclaims in Kenosha County Circuit Court Case No. 09-CV-353 because she did not represent the Rinaldis in that action. In fact, she did not even meet Roger Rinaldi until August, 2011 when she met him at the offices of Lewis & Levinson in Richmond, Illinois. At that time, he was seeking representation in Kenosha County Circuit Court Case No. 11-CV-1477 and neither she nor Attorney Kim Andrew Lewis were prepared to undertake representation in Case No. 11-CV-1477 beyond stipulating to the dismissal of the action for improper service of process, which their research showed was the correct course of action. Mr. Rinaldi agreed to have Respondent and Attorney Lewis represent the Rinaldis in stipulating to the dismissal of the action for improper service of process.

41. Paragraphs 75 and 76 are true, but do not contain any allegations which would constitute an ethics violation.

42. Paragraph 77(a) paraphrases the federal district court's decision, but ignores the context of the decision, which is that the Rinaldis were had moved to consolidate two orders

from the main bankruptcy court as well as the report and recommendations in the adversary case which were the result of a single decision, which was indeed confusing.

43. Paragraph 77(b) paraphrases the federal district court's decision, does not address the issues Respondent raised on appeal and by objection to the report and recommendation.

44. Paragraph 77(c) is not true. The adversary claims were not dismissed because "their submission of those claims was 'an unfocused, stream-of-consciousness-style recitation of grievances debtors have asserted in various forms since the origination of the litigation in state court.'" Rather, Respondent's objection to the Report and Recommendations was found to have not been sufficiently *specific*. What the Respondent was trying to articulate was that the Rinaldis objected to the entirety of Report and Recommendation to dismiss the adversary case.

Respondent was trying to call the court's attention to the fact that the Rinaldis did indeed have standing to challenge the fact that there had been no endorsement on the Note filed in the state court foreclosure (in which the Rinaldis appeared and proceeded pro se) and there had been no assignment of the Rinaldis' mortgage to HSBC until after summary judgment was granted to HSBC. The endorsement on the Note suddenly appeared after the Rinaldis' bankruptcy case was filed and two (2) different assignments of the Rinaldis' mortgage, in addition to the assignment of mortgage which was created and filed post-summary judgment, were filed in the bankruptcy case, one of which was created and filed after the bankruptcy filing, in violation of provisions of 11 U.S.C. sec. 544, in an attempt to perfect the lien after the commencement of the bankruptcy case. Each of the three (3) assignments of mortgage purportedly assigned the mortgage from Wells Fargo Bank, N.A. to HSBC Bank USA, N.A. in different identity. The bankruptcy court judge found that "defects in the transfer of the Note to the Wells Fargo Asset Securities

Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust (or any similarly named entity) (the “Trust”) do not render the Mortgage unenforceable, the Note invalid or the proof of claim fraudulent.” The opposite is true: defects in the transfer of the Note render the Note unenforceable by the party to whom the transfer was “defective.” See *Dow Family, LLC v. PHH Mortgage Corporation, et al.*, 2013 WI App 114, 838 N.W.2d 119, 350 Wis.2d 411 (Wis. App., 2013), decided on August 6, 2013, but was an appeal to the Wisconsin Supreme Court and was affirmed on July 10, 2014. Therefore, the law of the State of Wisconsin was not established until after the Rinadlis’ initial brief on appeal was due to be filed on July 13, 2013. The Wisconsin Supreme Court’s July 10, 2014 decision in *Dow Family, LLC v. PHH Mortgage Corporation, et al.*, 2014 WI 56, 354 Wis.2d 796, 848 N.W.2d 728 (Wis., 2014) was provided to the Seventh Circuit Court of Appeals as supplemental authority on September 7, 2014.

45. 77(d) is without a factual basis. As stated, *infra*, Respondent did not represent the Rinaldis in state court. OLR never asked the Respondent what her litigation strategy in the Rinaldis’ bankruptcy case was. The strategy was to allow the unsecured creditors, including the unsecured mortgage claimant, whomever that might be, to receive the proceeds of the Rinaldis’ home and the adversary proceeding damages, in excess of the Rinaldis’ exemptions, as clearly set forth in their Chapter 13 Plan.

46. Paragraph 78 is without a legal basis. It is not an ethics violation to file for relief under Fed. R. Civ. P. 59(e) and Fed. R. Civ. P. 59(e) allows for issues which have been adversely decided to be “repeated” in order to present manifest errors of fact or law, which is how Fed. R. Civ. P. 59(e) was used in the Rinaldis’ case. A motion under Fed. R. Civ. P. 59(e) must be filed within 14 days of the date of entry of the judgment to be reconsidered in order stay the time for

appeal.

47. Paragraphs 79-85 are mere recitations of procedural events and do not support charges of ethics violations.

48. Paragraph 86 does not establish that Respondent knowingly brought the Rule 60(b) motion in violation of SCR 20:3.1(a). OLR ignores the discovery of new evidence in a case being tried in the United States Bankruptcy Court for the Southern District of New York in which the homeowner was successful. Respondent provided the decision in *In re Carrsow-Franklin*, SBNY Case No. 10-20010 (RDD) dated January 29, 2015, which OLR has ignored.

49. The mere fact that the Seventh Circuit Court of Appeals did not reverse a discretionary act by the judge of the United States District Court for the Eastern District of Wisconsin (paragraph 89) does not support a violation of SCR 20:3.1(a), which requires clear and convincing evidence that Respondent knew that the motion based on newly discovered evidence which she obtained from the attorney who successfully defended the homeowner in *Carrsow-Franklin*, supra, was frivolous. That the Bankruptcy Court for the Southern District of New York ruled in favor of the homeowner shows that there was a good faith basis for bringing the same evidence to the attention of the United States District Court for United States District Court for the Eastern District of Wisconsin.

50. Paragraph 90 is unsupported as a matter of law. Respondent had standing to appeal from the sanctions award against her and the favorable ruling in *Carrsow-Franklin*, supra, shows that the Rule 60(b) motion was brought in good faith.

51. There is no factual basis to support OLR's allegation in paragraph 91 that the relief she requested in the Rinaldis' case before the United States District Court for the Eastern District

of Wisconsin on April 2, 2014 or the appeal were brought for purposes of delay in violation of SCR 20:3.2. The Rinaldis' bankruptcy had been dismissed on March 5, 2014, the automatic stay was terminated on March 5, 2014, no stay was sought pending appeal and the issues raised on April 2, 2014 were obviously meritorious because Carrsow-Franklin prevailed on the very same evidence which Respondent presented to the United States District Court for the Eastern District of Wisconsin, at a full and fair evidentiary hearing, which the Rinaldis were denied.

52. OLR's misconduct has cost the Respondent valuable work for which she should be compensated at the hourly rate she charges to clients who have the ability to pay, which is \$250.00 per hour, for having to respond to OLR's frivolous filings, including the time she will have to spend prosecuting this Motion for Sanctions and/or such other sanctions as may be awarded to deter similar conduct by OLR in the future pursuant to Wis. Stats. sec. 802.05(3)(b).

53. OLR is recklessly or intentionally filing frivolous documents before this Court because it believes that it is immune from the damages it causes to targets of its reckless or intentional, frivolous filings under SCR 21.19, but filing frivolous documents is not conduct in the course of OLR's official duties and OLR is not immune from sanctions which may be awarded under Wis. Stats. sec. 802.05(3).

WHEREFORE, the Respondent moves the Court for sanctions against OLR in the amount of her reasonable hourly rate for her services for the time she has spent responding to OLR's frivolous filings and for prosecuting this Motion for Sanctions and/or for such other sanctions as the Court may deem necessary to deter similar conduct by OLR in the future.

Dated at Minneapolis, Minnesota this 3rd day of December, 2015.


Wendy Alison Nora
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accesslegalservices@gmail.com
Wisconsin Attorney ID #1017043

DECLARATION OF SERVICE

Wendy Alison Nora declares that she served the foregoing Notice of Motion and Motion for Sanctions on Attorney Sheryl St. Ores, for OLR, at her facsimile number of record in these proceedings on December 3, 2015.


Wendy Alison Nora

APPENDIX G

STATE OF WISCONSIN

IN SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST WENDY ALISON
NORA, ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,
Complainant;

CASE NO. 2015AP2442-D

WENDY ALISON NORA,
Respondent.

RECEIVED

JAN 19 2016

AMENDED COMPLAINT

CLERK OF SUPREME COURT
OF WISCONSIN

NOW COMES the Wisconsin Supreme Court - Office of
Lawyer Regulation (OLR), by Assistant Litigation Counsel
Sheryl St. Ores, and alleges as follows:

1. OLR was established by the Wisconsin Supreme Court
and operates pursuant to Supreme Court rules. This *Amended
Complaint* is filed pursuant to SCR 22.11.

2. Respondent, Attorney Wendy Alison Nora (Nora), is a
Wisconsin attorney (State Bar No. 1017043) admitted to
practice law in 1975 whose office address is currently
listed with the State Bar of Wisconsin as Access Legal
Services, 310 Fourth Ave. S., Suite 5010, Minneapolis, MN
55415.

3. Nora's Wisconsin disciplinary history consists of a 30 day suspension as discipline reciprocal to that imposed by the Minnesota Supreme Court for misrepresentations, failing to adequately investigate, bringing a frivolous claim against a bank, inappropriate transfer of assets, and bringing litigation as a delay tactic while asserting a theory that was not justified by existing law. *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W.2d 99 (1993).

Regarding the Spencer Matter
OLR Matter No. 2014MA1570
Counts One - Three

4. In July 29, 2005, a mortgage note was issued in the amount of \$209,160 to Sheila Spencer (Spencer).

5. In 2008, Spencer failed to pay her mortgage.

• *Circuit Court: Judge Potter, Counsel, Staff*

6. In October 2008, PNC Bank filed a foreclosure action (Spencer foreclosure) against Spencer's property, the Honorable Gregory J. Potter (Judge Potter) presiding. *PNC Bank NA vs. Sheila M Spencer*, Wood County Case No. 2013TJ49.

7. In May 2012, Nora became successor counsel for Spencer.

8. Nora alleged the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme.

9. Nora argued the correct plaintiff holding the note was an issue before the court.

10. The court determined PNC Bank, N.A., was the correct party plaintiff.

11. Throughout the litigation, Nora accused opposing counsel of fraudulently concealing the identity of the real party interest and engaging in "actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct."

12. On May 23, 2012, the court held a scheduling conference, said hearing originally scheduled for summary judgment.

13. During the May 23, 2012 scheduling conference, the court stated Nora would need to provide a list of issues for summary judgment.

14. On May 25, 2012, plaintiff's counsel in the foreclosure action sent Judge Potter a letter and copied Nora enclosing a proposed order (proposed order) regarding the timeline for summary judgment issues.

15. Plaintiff's counsel's letter shows a copy of the proposed order was sent to Nora and he provided affidavits of mailing.

16. Judge Potter sent the parties via letter a signed order in which he acknowledged he converted the May 23, 2012 summary judgment hearing to a scheduling conference and provided a timeline for summary judgment issues.

17. Nora claims she never received Judge Potter's letter and final order.

18. Nora asserts there were *ex parte* communications by which plaintiff's counsel sent Judge Potter a letter with the proposed order and Judge Potter entered the order but did not send it to Nora.

19. Nora alleges there were three additional unlawful *ex parte* letter communications between Judge Potter and plaintiff's counsel: March 31, 2010, February 17, 2011, and June 20, 2011 letters.

20. An employee for plaintiff's attorney filed an affidavit in which she swore she sent the March 31, 2010 letter to Spencer.

21. The February 17, 2011 and June 20, 2011 letters indicate on their face a copy was sent to Spencer.

22. On June 28, 2012, Nora moved to have Judge Potter disqualified based upon the alleged *ex parte* communications.

23. Nora received the transcript of the May 23, 2012 hearing and discovered the third page was missing from the transcript.

24. Nora claimed there were certain word variances between the words used during the May 23, 2012 hearing and the words appearing in the transcripts, such as the word 'call me' was transcribed as 'contact me.'

25. Nearly all of the text of page three of the transcript consists of Nora giving Judge Potter a procedural and factual history of the case.

26. Page three of the transcript contains no orders, no dates, and no findings that would prejudice Nora or her client.

27. Nora claimed Judge Potter and the court clerk intentionally manipulated the court record.

28. Nora subsequently withdrew her objections related to the transcript page three and acknowledged there must have been a collating or processing error.

29. On July 23, 2012, Nora filed an amended motion demanding Judge Potter be disqualified based upon repeated *ex parte* communications and entering *ex parte* orders.

30. In the July 23, 2012 motion, Nora accused opposing counsel of conniving to procure *ex parte* orders, and,

accused the judge, opposing counsel, and court personnel of manipulating the record.

31. The court entered an order denying Nora's July 23, 2012 disqualification motion.

- *U.S. District Court: Judge Crabb*

32. On January 10, 2013, nearly four years after the Spencer foreclosure action commenced and while a summary judgment motion was pending in circuit court, Nora filed a motion to remove the case to the U.S. District Court for the Western District of Wisconsin, U.S. District Court Judge Barbara A. Crabb (Judge Crabb) presiding.

33. On February 8, 2013, the plaintiff moved to remand the Spencer foreclosure matter to state court.

34. Throughout her brief in response to the remand and other pleadings, Nora accused the plaintiff and its attorneys of engaging in a "sham proceeding" against her client.

35. In a March 25, 2013 order, Judge Crabb stated federal jurisdiction did not attach to the Spencer case and remanded the case to the Wood County Circuit Court.

36. On April 8, 2013, Nora filed a motion for reconsideration of the March 25, 2013 order objecting to attorney's fees.

37. Judge Crabb denied Nora's April 8, 2013 motion for reconsideration as frivolous because the matter had already been remanded, stated the Court lacked jurisdiction to reconsider its remand order, and ordered Spencer to pay attorney's fees.

38. Nora filed a second motion for reconsideration of the March 23, 2013 order, said motion summarily denied.

39. Nora accused Judge Crabb of libel based upon orders Judge Crabb made in previous cases involving Nora.

40. Judge Crabb's previous orders, in part, involved unsealing one of Nora's medical records during a matter in which Nora claimed her medical condition required additional extensions of time and other considerations by the court.

41. Nora alleged Judge Crabb's opening of the medical records was injurious to her reputation.

42. Nora has not alleged the medical records were untrue.

43. Nora's accusations of libel were intended to discredit a judiciary member while performing her duties.

44. In addition, Nora stated her accusations of libel against Judge Crabb related to the Judge making a statement that Nora's arguments were "lacking coherence."

45. Nora stated, "[T]he Respondent indeed stated that Judge Barbara A. Crabb has engaged in a campaign of libel against her."

• U.S. Court of Appeals for the Seventh Circuit

46. Nora appealed the U.S. District Court's order for remand and attorney's fees to the U.S. Court of Appeals for the 7th Circuit (7th Circuit).

47. In Nora's appeal to the 7th Circuit, Nora named herself as one of the appellants.

48. Nora was not a party to the U.S. District Court action.

49. The August 13, 2014, 7th Circuit's decision in Case No. 13-276:

- (a) found Nora's appeal on behalf of herself and Spencer frivolous.
- (b) imposed a sanction of \$2,500 against Nora noting, "We suspend this sanction, however, until the time, if ever, that Nora submits further inappropriate filings."
- (c) ordered Nora to show cause as to why she should not be sanctioned for the frivolous appeal.

PNC Bank, N.A. v. Spencer, 763 R.3 650, 655 (7th Cir. 2014).

50. In its August 20, 2014 order for a show cause hearing, the 7th Circuit requested Nora respond to four

specific issues and directed her to provide only one response.

51. In response to the August 20, 2014 show cause order, Nora submitted five separate responses as follows:

- (a) an August 27, 2014 petition for rehearing en banc on behalf of herself and Spencer, rehashing her frivolous appellate arguments;
- (b) a "partial response to order to show cause";
- (c) a September 19, 2014 separate motion to stay further proceedings pending a petition for writ of certiorari;
- (d) citation to additional authority; and,
- (e) eleven days before the show cause hearing a motion to postpone the hearing because of a mild injury she had sustained in a car accident.

52. Nora's order to show cause response repeated her accusations against PNC Bank, NA and its attorneys of engaging in felony racketeering and wire fraud, and further, Nora accused opposing counsel of fraudulently concealing the identity of the real party in interest and engaging in "actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct."

53. On September 16, 2014, the Court of Appeals denied Nora's August 27, 2014 petition for rehearing *en banc*.

54. On September 19, 2014, Nora filed a petition to stay the September 16, 2014 decision pending a writ of certiorari to the U.S. Supreme Court.

55. On October 2, 2014, the 7th Circuit issued a final order directing Nora's client, Spencer, to pay the opposing party \$25,295 in attorney's fees and \$349.67 in costs.

56. The October 2, 2014 7th Circuit order was silent on the issue of whether it would issue any additional sanction against Nora.

57. On October 3, 2014, Nora filed a 28-page decision from the 6th Circuit Court of Appeals, 13-3402, as supporting evidence for Nora's case.

58. On October 28, 2014, a show cause hearing was held.

59. On February 11, 2015, the 7th Circuit issued an order regarding the show cause hearing outlining the factual background as follows:

As discussed in our earlier opinion, this case arose from a Wisconsin foreclosure action in which Nora, retained by Sheila Spencer, raised numerous objections focused on alleging that PNC Bank was fraudulently attempting to foreclose. Nearly four years after the suit had been filed, Nora then removed the case to federal court on the basis that she had just discovered through internet research that Freddie Mac was the "real party in interest." The district court remanded the case to state court and awarded fees and costs to PNC, concluding that Nora failed to explain how federal jurisdiction could exist when Freddie Mac was not a party to the case. Nora moved for reconsideration, and the court denied the motion as "frivolous," noting that

Nora "ignored the voluminous law stating that district courts lack jurisdiction to reconsider remand orders, made no good faith argument for changing existing law and offered no meritorious arguments for reconsidering the decision to award fees." The court added that Nora had attempted "repeated procedural feints to delay the foreclosure that was properly before the state court."

Nora then appealed on behalf of both Spencer and herself, and we concluded that the appeal was sanctionably frivolous. We explained that Nora had "never presented any colorable basis for federal jurisdiction over this years-old state-court foreclosure case," leading us to "suspect that the removal was part of a strategy designed to gum up the progress of the case." *Spencer*, 763 F.3d at 655. We also observed that we lacked jurisdiction over Nora's appeal on her own behalf because liability for the award of fees and costs rested solely with Spencer; although Nora asserted that Judge Crabb had "engaged in a campaign of libel against [her]," this alleged criticism did not permit Nora to appeal. *Id.* at 653-54. Nora suggested at oral argument that she would withdraw her name as co-appellant but never did so. *Id.* at 654.

Further, we noted that Nora's conduct appeared to be part of a pattern of troubling litigation tactics... Additionally, we observed that Nora's responses to her opponents and the courts during this litigation were "unnecessarily accusatory and antagonistic," noting that Nora had accused "the state court judge and court reporter of fraudulently manipulating transcripts, the district judge of pursuing 'a campaign of libel against [her],' and opposing counsel of engaging in 'actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct.'" *Spencer*, 763 F.3d at 655 (alterations in original). We gave Nora 30 days to show cause why she should not be sanctioned.

Two days after we issued our opinion, Nora filed a 14-page "initial response" alleging that the

opinion did not provide her with reasonable notice of the charges against her. She requested an evidentiary hearing and appointment of "an attorney to represent the proponent of the Order to Show Cause and a referee or special master to preside at the hearing." We denied Nora's request for appointment of a special master and a full evidentiary hearing but agreed to hold a hearing on the show-cause order as allowed under Rule 46(c). We warned Nora that we would not accept additional filings beyond "one proper response to the show-cause order" and directed her to address the following four issues in her response: (1) whether the removal of this case, motion to reconsider, and appeal of the fee order were frivolous; (2) whether her appeal on her own behalf was frivolous; (3) whether the removal and appeal were litigated for the improper purposes of delay or increasing litigation costs; and (4) whether her attacks on her opponents and the district judge were appropriate advocacy.

Nora did not limit herself to one proper response. On September 2, 2014, she submitted a petition for rehearing *en banc* on behalf of herself and Spencer, rehashing her frivolous appellate arguments. On September 19, she filed both a "partial response to order to show cause (all rights reserved)" and a separate motion to stay further proceedings pending a petition for writ of certiorari. On October 3, after the court denied her request for a stay of proceedings, she filed a citation of additional authority under Circuit Rule 28(e) to bring to our attention a Sixth Circuit decision that purportedly supports her arguments on the merits. Finally, on October 17, eleven days before the show cause hearing, Nora moved to postpone the hearing because she had become "progressively mildly cognitively impaired as the result of a whiplash injury" from a car accident on September 13. We denied the request to postpone the hearing but granted Nora, or an attorney on her behalf, leave to argue by speakerphone. On October 28, Nora appeared in person for a 20-minute hearing.

In re Nora, 778 F.3 662 (7th Cir. 2015).

60. In its February 11, 2015 order, the 7th Circuit discussed whether sanctions would be appropriate:

Sanctions are warranted under Rule 38 when a litigant or attorney presents appellate arguments with no reasonable expectation of success for the purposes of delay, harassment, or sheer obstinacy. See *Wachovia Sec., LLC v. Loop Corp.*, 726 F.3d 899, 909-10 (7th Cir. 2013); *Hartz v. Friedman*, 919 F.2d 469, 475 (7th Cir. 1990); *Mays v. Chi. Sun-Times*, 865 F.2d 134, 138-39 (7th Cir. 1989). Nora's responses provide us with no persuasive reason to doubt that her arguments in this appeal were motivated by improper purposes...

Nora also fails to alleviate our concern about her engaging in "conduct unbecoming a member of the court's bar" under Rule 46(c). She contends that her comments during this litigation have amounted to nothing more than unsanctionable rudeness, citing *In re Snyder*, 472 U.S. 634 (1985). In *Snyder*, the Supreme Court concluded that a single ill-mannered letter did not rise to the level of "conduct inimical to the administration of justice" that is sanctionable under Rule 46(c). *Id.* at 645-47; see *In re Lightfoot*, 217 F.3d 914, 916-17 (7th Cir. 2000) (discussing this standard and collecting cases applying it). But Nora's conduct is more egregious than that in *Snyder*. As noted in our earlier opinion, Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions. See *In re Hendrix*, 986 F.2d 195, 201 (7th Cir. 1993)

(explaining that attorney's filing of submissions not grounded in law or fact is sanctionable); *Mays*, 865 F.2d at 140 (sanctioning attorney for falsely imputing positions on opponents and the court).

Nora suggested at her hearing that her problems represent a personal dispute with Judge Crabb, pointing out that the judge decided to unseal Nora's medical records in an appeal Nora filed in her own bankruptcy case. But Nora has failed to persuade us that the judge's actions amounted to anything more than adverse rulings against her. *Cf. Liteky v. United States*, 510 U.S. 540, 555 (1994) ("[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.")... When we questioned Nora about the lack of basis for her libel accusations at the hearing in this case, she proposed that she could substantiate her accusations if allowed to discuss them with us in chambers. There is no reason to believe that allowing Nora to disparage Judge Crabb in private would convince us that sanctions are inappropriate.

Id. Nora

COUNT ONE

61. By removing a state court foreclosure matter to the federal court after four years of litigation when there was no colorable basis for federal jurisdiction, and, by filing a frivolous motion to reconsider the order remanding the matter back to the state court, Nora violated SCR

20:3.1(a).¹

¹ SCR 20:3.1(a) provides: "In representing a client, a lawyer shall not: (1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law; (2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or (3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another."

COUNT TWO

62. By filing a frivolous appeal on behalf of her client and herself when she was not a party to the litigation, and, by engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 20:3.2.²

COUNT THREE

63. By engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 40.15 enforceable via SCR 20:8.4(g).³

Regarding the Rinaldi Matter
 OLR Matter No. 2015MA614
 Counts Four - Five

64. At all times herein, unless excepted, Nora represented the plaintiffs in their state foreclosure actions and all appeals. *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.* U.S. Dist. Court, Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and

² SCR 20:3.2 provides: "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client."

³ SCR 40.15 provides in relevant part: "I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land; ... I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged..."

SCR 20:8.4(g) provides: "It is professional misconduct for a lawyer to violate the attorney's oath."

13-CV-643-JPS (District Court), and, 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887 (Court of Appeals).

65. In 2005, Roger Rinaldi (Rinaldi) and his wife Desa (the Rinaldis) signed a note promising to repay a Wells Fargo mortgage loan.

66. Within four years, the Rinaldis defaulted on the loan and HSBC Bank USA, N.A. (HSBC) initiated a Wisconsin foreclosure action as assignee of the mortgage note. *HSBC Bank USA vs. Roger Rinaldi, et al.*, Kenosha County Case No. 09-CV-353.

67. The Rinaldis counter-claimed against HSBC, Wells Fargo, and the lawyers involved in the foreclosure alleging that the mortgage paperwork produced by HSBC had been fraudulently altered and that HSBC lacked standing to enforce the mortgage.

68. The state court granted summary judgment against the Rinaldis, who did not appeal.

69. A year later the state court vacated its foreclosure judgment based upon HSBC agreeing to modify the loan rather than foreclose.

70. After the parties finalized the loan modification agreement, the Rinaldis filed a new state lawsuit (second state court matter), reasserting their counterclaims against the same parties. *Roger Rinaldi, et al. vs. Wells Fargo*

Bank National Association, et al., Kenosha County Case No. 11-CV-1477. Nora entered her appearance on behalf of the Rinaldis in that matter on August 30, 2011.

71. The defendants moved to dismiss with prejudice the second state court matter.

72. Before the state court could rule on the dismissal motion in the second state court matter, the Rinaldis filed a bankruptcy action (bankruptcy matter) precipitating an automatic stay. *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A. , et al.*, U.S. Bankruptcy Court, Eastern District of Wisconsin, Case No. 11-35689-svk. Nora began representing the Rinaldis in the bankruptcy matter on November 18, 2011.

73. HSBC, holder of the Rinaldi mortgage note, filed a proof of claim in the bankruptcy matter.

74. In June 2012, Nora objected to HSBC's bankruptcy proof of claim, filed adversary claims against the parties that the Rinaldis had counter-claimed against in the state action, and alleged fraud, abuse of process, tortious interference, breach of contract, and violations of RICO and the Fair Debt Collection Practices Act.

75. On February 22, 2013, the bankruptcy court found in favor of HSBC's proof of claim and recommended denial of Nora's adversarial claims.

76. Nora appealed the February 22, 2013 bankruptcy court order.

77. On October 31, 2013, the District Court affirmed the bankruptcy court's orders on the proof of claim, adopted the bankruptcy court's recommendations on the adversary claims, and found as follows:

- (a) The court concluded that it did not even need to reach the merits of the proof-of-claim decision because the Rinaldis failed to designate the record or issues for appeal as required by the Federal Rules of Bankruptcy Procedure.
- (b) The court rejected the Rinaldis' appeal on the merits, explaining that HSBC had produced documents showing that it was entitled to enforce the mortgage.
- (c) The court dismissed each of the Rinaldis' adversary claims as meritless, noting that their submission of those claims was "an unfocused, stream-of-consciousness-style recitation of general grievances debtors have asserted in various forms since the origination of the litigation in state court."
- (d) The court warned the Rinaldis they would likely face sanctions if they filed additional frivolous filings because their litigation tactics had "quite obviously been vexatious and time-and resource-consuming" and their filings were "nigh-unintelligible."

78. Within two weeks of the October 2013 District Court's decision, Nora moved to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) and repeated her previously denied arguments related to the mortgage.

79. On December 13, 2013, the District Court decided Nora's Federal Rule of Civil Procedure 59(e) motion and stated as follows:

- (a) the arguments were meritless and "the Rinaldis, through their attorney Wendy Nora, have at every turn filed briefs that have done little to clarify the matters under consideration while further confusing matters" (emphasis in original).
- (b) Nora's briefs were rambling, failed to comply with court rules, contained many spelling and grammatical errors, cited legal authority sparingly if at all, repeated rejected arguments, and used "irrelevant and argumentative language that has no place in a legal brief."
- (c) The court warned that "any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney" (emphasis in original).

~~80. In December 2013, Nora appealed the District Court~~
ruling to the Court of Appeals.

81. In March 2014, Nora moved to dismiss the Rinaldis' 2011 bankruptcy action asserting she wished "to proceed to state court" with "newly discovered evidence" that the mortgage was void.

82. The bankruptcy court granted Nora's motion to dismiss, informing her that the dismissal might moot the Rinaldis' pending appeal.

83. Nora moved to withdraw as the Rinaldis' attorney in the District Court case.

84. Before the District Court ruled on Nora's motion to withdraw, Nora moved to intervene in the District Court case and demanded relief pursuant to Federal Rule of Civil Procedure 60(b).

85. On April 9, 2014, the District Court allowed Nora to withdraw.

86. On April 9, 2014, the District Court found Nora's motions to intervene and for relief from the District Court's prior orders pursuant to Rule 60(b)(2) of the Federal Rules of Civil Procedure to be frivolous and sanctioned Nora \$1,000, stating:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that '[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis'. (emphasis in original)

87. On behalf of the Rinaldis and herself, Nora appealed the District Court's order related to the Federal

Rule of Civil Procedure 60(b) motion and the \$1,000 sanction for frivolous motion filing.

88. On February 11, 2015, the Court of Appeals affirmed the District Court's sanction order.

89. In ruling on Nora's appeal of her District Courts Federal Rule of Civil Procedure 60(b) motion and the subsequent \$1,000 sanction order, the Court of Appeals discussed whether sanctions were appropriate, stating:

Finally, we affirm the sanction order, which we review for an abuse of discretion. See *Tucker v. Williams*, 682 F.3d 654, 661 (7th Cir. 2012). Nora offers only a cursory defense for her actions, maintaining that she did "nothing more than what she [was] required by law to do in the course of representing her clients." But Nora's obligations to her clients did not excuse her disregard of the district court's clear and repeated warnings against continued submission of confusing, frivolous, and needlessly argumentative filings. Thus, the court did not abuse its discretion by sanctioning Nora.

The orders of the district court are affirmed.

Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al., 778 F.3d 672, 672-675 (7th Cir., 2015) at 676.

COUNT FOUR

90. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos.

13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated SCR 20:3.1(a).

COUNT FIVE

91. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated and SCR 20:3.2.

WHEREFORE, the Office of Lawyer Regulation asks that

Attorney Wendy Alison Nora be found in violation of the Supreme Court rules as alleged in Counts One through Five of this *Amended Complaint*, that the Court suspend Attorney Wendy Alison Nora's Wisconsin law license for a period of one year consecutive to and immediately following any suspension imposed upon Nora related to Supreme Court Case No.

2013AP653-D, and for such other and further relief as may be just and equitable, including an award of costs.

Dated this 19 day of January, 2016.

OFFICE OF LAWYER REGULATION



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APPENDIX H

STATE OF WISCONSIN

IN SUPREME COURT

In re the Matter of the Disciplinary Proceedings
Against Wendy Alison Nora,
Attorney at Law

Case Code: 30912

Office of Lawyer Regulation,
Complainant

Case No. 2013AP000653-D

v.

Wendy Alison Nora,
Respondent

REPLY ON RESPONDENT’S JURISDICTIONAL OBJECTION AND MOTIONS TO DISMISS FOR LACK OF PROBABLE CAUSE TO INITIATE THESE PROCEEDINGS; FOR A *FRANKS* HEARING TO DISMISS FOR LACK OF PROBABLE CAUSE; FURTHER OR ALTERNATIVE MOTION TO DISMISS FOR SELECTIVE AND VINDICTIVE PROSECUTION; AND FURTHER OR ALTERNATIVE MOTION TO DISMISS AS A SANCTION FOR BAD FAITH INITIATION AND CONTINUATION OF THESE PROCEEDINGS AND THE COMPANION CASE PREVIOUSLY IDENTIFIED AS NORA #1 (AND RESERVATION OF RIGHT TO FILE FURTHER MOTIONS TO DISMISS AS A SANCTIONS FOR OLR’S BAD FAITH CONTINUING CONDUCT)

INTRODUCTION

Respondent, Wendy Alison Nora (Nora) filed her Preliminary Reply to OLR’s Response on April 11, 2016 and the procedural facts contained therein are incorporated by reference in this Reply. In Response to Nora’s initial Motions, OLR argues that the law established by the United States Supreme Court almost half a century ago specifically addressing lawyer disciplinary proceedings is not apply to lawyer disciplinary proceedings; that OLR cannot establish that it reasonably believes the truth of its factual allegations unless Nora files an Answer; and that cause to proceed in attorney disciplinary proceedings by the enforcement arm of the Supreme Court of Wisconsin is not subject to judicial review.

ARGUMENT

I. Nora is entitled to the procedural due process afforded to criminal defendants in these quasi-criminal proceedings under *In re Ruffalo*, 390 U.S. 544, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968).

In what has become OLR's common practice in these proceedings, OLR misrepresents the law. The United States Supreme Court held in *In re Ruffalo*, supra, at 390 U.S. 551, "These are adversary proceedings of a quasi-criminal nature. . . The charge must be known before the proceedings commence." OLR denies that *In re Ruffalo*, supra, is applicable to lawyer disciplinary proceedings, writing, (Nora)"cites *In re Ruffalo* which is not applicable, argues 'quasi criminal defendant' status which is specious, and in a moment of legal creativity suggests the Supreme Court of Wisconsin 'adopt the constitutional due process of standards of criminal practice' in this disciplinary proceeding." (OLR's Response, page 5, second paragraph.)

In re Ruffalo, supra, involved lawyer disciplinary proceedings. It is the ultimate authority of the Supreme Court of the United States which declared these proceedings quasi-criminal in nature, not Nora. That *In re Ruffalo*, supra, applies to these proceedings cannot reasonably be disputed. Nora's position that she is a quasi-criminal defendant has been the established law of this nation for almost half a century. There is nothing "specious" about Nora recognizing her status as a quasi-criminal defendant in these proceedings. The United States Supreme Court decided that a lawyer charged with misconduct is a defendant in quasi-criminal proceedings almost 50 years ago and Nora is, therefore, entitled to the procedural due process accorded to criminal defendants.

Whether these proceedings are characterized as civil proceedings, criminal proceedings or a blend of both, Nora is entitled to due process. Nora's Motion for a *Franks* hearing simply

incorporates a process available to criminal defendants into these quasi-criminal proceedings to determine whether or not OLR has “cause” to proceed against her.¹ OLR may only file charges based on facts which OLR reasonably believes may be proved to be true by clear, convincing and satisfactory evidence. If OLR does not reasonably believe that the facts alleging misconduct are true, OLR is without jurisdiction to charge a lawyer with professional misconduct.

OLR claims that it is at a disadvantage in responding to the challenge to its cause to proceed because Nora has not yet filed an Answer. Cause to proceed must be based on facts reasonably believed to be true before OLR files charges of misconduct against an attorney under SCR 22.001(2). OLR’s Response to Nora’s Motion for a *Franks* hearing establishes that it has no cause to proceed on true facts and existing law. The Amended Complaint was filed without meeting the jurisdictional requirement of reasonable cause to believe that OLR may prove facts constituting professional misconduct by clear, convincing and satisfactory evidence.

II. OLR’s Response wholly fails to address that its factual allegations are false and that its mixed allegations of law and fact are based on misrepresentations of law which is why the *Franks* remedy is necessary because there is no process in the Rules of Civil Procedure by which a lawyer can attack false allegations in a complaint, which OLR knowingly or recklessly filed.

OLR purports to be prosecuting these proceedings under the authority granted to it by the Wisconsin Supreme Court. OLR, like any prosecutor, is constitutionally prohibited from filing a complaint (here, to initiate disciplinary proceedings) on the basis of false factual allegations and

¹ The only difference between the definition of “cause” to proceed on charges of misconduct in SCR 22.001(2) and “probable cause” to proceed on criminal charges is the reasonable belief that the prosecution will be able to meet its burden of proof. SCR 22.001(2) requires that the complainant have a reasonable belief that it may prove misconduct by **clear, satisfactory and convincing evidence**. In criminal cases, the prosecution must have a reasonable belief that it may prove that the defendant committed a crime **beyond a reasonable doubt**.

misrepresentations of law, knowingly made or made with reckless disregard for the truth. *Franks v. Delaware*, 438 U.S. 154, 154-156, 165, 171-172, 57 L.Ed.2d 667, 98 S.Ct. 2674 (1978)².

Although the Wisconsin Rules of Civil Procedure provide for sanctions for the commencement and continuation of an action or proceedings based on false factual allegations [Wis. Stats. sec. 802.05(2)(b)] and to do so violates the Code of Professional Conduct at SCR 20.3.1(a)(2), and Wisconsin law even allows an action to recover damages for the initiation of a false civil proceeding under Wis. Stats. sec. 895.044(1)(a) and (b), jurisdiction attaches even to false pleadings in civil proceedings.

Franks v. Delaware, supra, provides a remedy for complaint initiated in criminal proceedings upon false allegations and allows the defendant to challenge false factual allegations in the complaint by raising the jurisdictional issue of whether or not there is probable cause to proceed in the action. Nora has specified 47 false factual allegations and mixed false factual allegations and misrepresentations of law. She provided the Court with a proposed form of the Amended Complaint which remains after the false allegations and misrepresentations of law are disregarded. If the Amended Complaint thus modified is sufficient to proceed to final evidentiary hearing on the remaining allegations which are factually true and do not contain false facts mixed with misrepresentations of law, jurisdiction attaches. Otherwise, the Amended Complaint must be dismissed for lack of “cause” to proceed.

OLR does not argue that it reasonably believes that its factual allegations/mixed false statements of facts and misrepresentations of law in ¶¶4, 5, 6, 8, 9, 10, 11, 13, 16, 17, 18, 19, 20,

² The *Franks* remedy for false factual allegations were approved by the Wisconsin Supreme Court in *State v. Marshall*, 284 N.W.2d 592, 92 Wis.2d 101 (Wis., 1979) and *State v. Mann*, 367 N.W. 2d 209, 123 Wis. 2d 375. 385 (Wis., 1985).

21, 23, 27, 28, 30, 31, 32, 34, 38, 42, 43, 49(b), 51, 52, 60, 61, 62, 63, 64, 66, 67,³ 70, 71, 72, 73, 74, 77(a), 77(b), 77(c),⁴ 77(d), 78, 79, 81, 86, 90 and 91 are true. Nora has identified the following allegations as containing false statements of facts: ¶¶ 4, 5, 6, 8, 10, 11, 13, 16, 17, 18, 19, 20, 21, 23, 27, 28, 29, 30, 31, 32, 34, 38, 42, 43, 49(b), 51, 52, 60, 61, 62, 63, 64, 66, 67, 70, 71, 72, 73, 74, 77(a), 77(b), 77(c), 77(d), 78, 79, 81, 86, 90 and 91. Nora has identified ¶¶ 4, 13, 17, 29, 34, 42, 43, 61, 62, 78, 90 and 91, amounting to 12 paragraphs, as mixed false facts and misrepresentations of law. Those 12 paragraphs falsely imply that the legal positions Nora took are not allowed by existing law. ¶¶ 9 and 35 are legal conclusions and are not supported by existing law. In all, more than half of OLR's allegations are false factual allegations, mixed false factual allegations and misrepresentations of law or are pure misrepresentations of law.

OLR does not state it reasonably believes that any of the challenged false and misrepresented legal positions in the foregoing paragraphs are true. Instead, OLR argues that "OLR is at a disadvantage" because Nora has not answered the Amended Complaint. OLR cannot possibly be at a disadvantage by Nora filing initial Motions to Dismiss which she is entitled to do in either civil or criminal proceedings. OLR is required to reasonably believe that it can prove its allegations by clear, convincing and satisfactory evidence before it files a complaint charging a lawyer with professional misconduct. SCR 22.001(2). OLR does not argue that

³ False paragraph 67 was inadvertently not identified as a false paragraph in the Sanctions Motion of January 25, 2016. Specifically, under the Wisconsin Rules of Civil Procedure, the Rinaldis could not file a Counterclaim against nonparties to the Kenosha County Circuit Court case.

⁴ Nora has included the allegations which OLR states "assist in providing, in part, the factual foundation for the misconduct allegations supporting" Counts One, Two, Four and Five of the Amended Complaint in the attached Revised Modified Complaint, so that the Court can determine whether or not the allegations that OLR believes to be true support its reasonable belief that "cause" exists to charge Nora with the misconduct alleged in Counts One, Two, Four and Five.

further discovery is necessary to establish the (false) facts it has alleged. In fact, OLR admits that it conducted a lengthy investigation (Response, page 14). OLR alleges no facts upon information and belief. All advantages in these proceedings have been provided to OLR, including the requirement that Nora must respond to all of its inquiries under SCR 21.15(4) and she did so.

Nora is required to answer to the charges only if OLR's charges meet the threshold burden of alleging *true* facts upon which OLR may proceed. Reasonable belief that factual allegations are true and may be proved by clear, convincing and satisfactory evidence is a jurisdictional prerequisite for a finding of cause to proceed. Wis. Stats. secs. 802.06(2), 802.05(2)(a) and (b) are unavailing to grant Nora relief from false charges because false allegations which are presumed to be true at the pleadings stage. Nora is entitled to challenge whether or not OLR reasonably believes that its factual allegations and representations are true in these proceedings which are quasi-criminal in nature. She has done so and OLR has failed to rebut Nora's prima facie case that more than half of the allegations in the Amended Complaint contain false facts and misrepresentations of law. The Rules of Civil Procedure provide an inadequate remedy for disposing of false allegations not believed to be true by the charging party *ab initio*.

Despite the detailed identification of almost four (4) dozen false facts and misrepresentations of law alleged in the Amended Complaint, OLR can only muster for its response that seven paragraphs: ¶¶49, 59, 60, 77, 78, 86, and 89 "assist in providing, in part, the factual foundation for the misconduct allegations supporting" Counts One, Two, Four and Five of the Amended Complaint. As an initial matter, OLR, therefore, has conceded that it has no factual basis for the charge set forth in Count Three. Count Three is entirely unsupported by any

facts and must now be dismissed.

As to Counts One, Two, Four and Five, OLR's argument that the "allegations" in ¶49, 59, 60, 77, 78, 86, and 89 "assist in providing, in part, the factual foundation for the misconduct allegations. . ." (OLR Response, page 14, paragraphs 5 and 6) fails to establish cause to proceed. That a mere seven paragraphs partially assist in providing the factual foundation for the misconduct allegations, does not come close to rebutting Nora's *prima facie* case that these proceedings are grounded upon 47 false factual allegations, including 12 paragraphs of mixed false facts and misrepresentations of law, all specifically stated, along with 2 paragraphs which misrepresent the existing law. OLR needs more than verbatim quotations from judicial decisions to establish that Nora knowingly or recklessly violated of the Rules of Professional Conduct which OLR must reasonably believe in good faith to be true. A *Franks* hearing on surviving allegations in the Amended Complaint must be conducted to determine whether or not there is cause to proceed without the false allegations against Nora. OLR has produced no evidence or argument to rebut Nora's Verified Motion for a *Franks* hearing. OLR's false allegations of fact and misrepresentations of law were not corrected by its January 19, 2016 Amended Complaint.

Nora is surprised by OLR's argument that "cause" exists for the charges in these proceedings, based not on the Amended Complaint, but based on the assertion that she was aware of the basis for the new charges in this second case, Nora #2, for the reasons stated by OLR below. Sadly, Nora is no longer surprised by OLR's assertions of false facts. OLR knows that its argument quoted below is false:

- (1) [T]he Preliminary Review Committee (PRC) found cause to proceed on each of the Five Counts in the Amended Complaint" (page 6, last paragraph) and
- (2) The Respondent is fully aware of the procedure in this, a civil disciplinary proceeding,

having engaged in extensive communications with the OLR Investigator and the OLR District Committee members in both Nora One (Case No. 13AP653-D) and Nora Two (Case No. 15AP2442-D). The Respondent was represented and aided by counsel during a portion of the disciplinary investigation. Nora had ample opportunity over a lengthy period of time to obtain the facts supporting the foundation for the decision to find cause to proceed, and she did so. Importantly, the Respondent had a full opportunity to provide any information and evidence thought to be important to the cause to proceed investigation and PRC determination. The Respondent was provided a copy of the OLR District Committee report containing copious documents. Input from the Respondent was received. Exchange of information with the Respondent occurred repeatedly prior to the PRC's finding of cause to proceed on five counts in the Rinaldi and Spencer matters. . . (Page 7, first paragraph.)

There is not a single factual allegation in the Amended Complaint that the PRC found cause to proceed on the Complaint or Amended Complaint in Nora #2. Nora was never notified that the PRC was meeting to consider any investigative report in Nora #2. Such a report, if it exists, was not provided to Nora and she was never given an opportunity to provide supplementary materials to the PRC (if the PRC ever considered the charges in Nora #2.) Contrary to unsworn factual assertion in (2), above, there is no evidence or allegation that OLR appointed a District Committee to investigate the charges in Nora #2. Nora was never informed that a District Committee was appointed in Nora #2. To Nora's knowledge, no District Committee was ever appointed to investigate the charges in Nora #2. Nora did not communicate with a District Committee regarding the charges in Nora #2. No District Committee was appointed to investigate Nora #2. OLR knows that Nora was not represented by counsel at any time during the investigation which led to Nora #2. Nora was never provided with a copy of any District Committee Report falsely stated to have been provided to the PRC to determine cause to proceed in Nora #2, again, because no report was ever prepared by a District Committee.⁵ Based

⁵ The "copious" documents provided to the PRC from the District 9 Ethics Committee were provided in Nora #1.

on OLR's false statement regarding the process leading to the charges in Nora #2, Nora doubts that the charges in Nora #2 were authorized by the PRC, but if they were, Nora was given no opportunity to review the information provided to the PRC or to supplement the purported investigative report as OLR now falsely asserts she did, but which she was entitled to do. Whatever truth survives the exclusion of false factual allegations and misrepresentations of law and the *Franks* hearing will demonstrate whether or not OLR had cause to bring the charges in Nora #2.

III. OLR's Response fails to rebut the prima facie case that Nora is being selectively and vindictively prosecuted in these proceedings, as established by Nora's sworn factual allegations.

In response to Nora's Motion to Dismiss for Selective and Vindictive Prosecution, OLR argues under the authority of *Wayte v. United States*, 470 U.S. 598, 607, 105 S.Ct. 1524, 84 L.Ed.2d 547 (1985) that it has "broad discretion" to charge Nora with professional misconduct. The deference granted to prosecutors emanates from the separation of power between the executive branch (elected prosecutors or prosecutors appointed by the executive branch) and the judicial branch of government. These proceedings are entirely within the judicial branch of government, under the authority of the Wisconsin Supreme Court. OLR prosecutions are not initiated by a separate and independent branch of government entitled to deference under the principle of separation of powers. Furthermore, judicial review is required for determinations of probable cause in criminal cases and must be provided in quasi-criminal proceedings for which cause to proceed must be determined.

Wayte, supra, does not involve the issue Nora raises in these proceedings which is that OLR is proceeding upon factual allegations falsely made or made in reckless disregard for the

truth. OLR is not passively prosecuting Nora as was the case in *Wayte*, supra. OLR is actively prosecuting Nora based on false allegations of fact and misrepresentations of law for the completely lawful act of representing homeowners, whose property rights are being subjected to false foreclosure claims entities in cases who cannot provide evidence that any debt is owed to the them without creating, recording and uttering forged documents into the public land and court records.

Nora is not a protestor against a government policy. She is an officer of the Supreme Court of Wisconsin provides her clients with their right to judicial redress of their grievances, which is wholly lawful conduct. To punish Nora for engaging in conduct the law plainly allows is “a due process violation of the most basic sort.” *Bordenkircher v. Hayes*, 434 U.S. 357, 363, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978). OLR’s failure to establish “cause” on true facts inexorably leads to the conclusion that OLR’s active enforcement action, based on false facts and misrepresentations of law, is further evidence that this prosecution is selective and vindictive, pursued on behalf of Nora’s litigation opponents for the purpose of chilling her representation of her clients’ rights in foreclosure actions.

CONCLUSION

OLR has wholly failed to rebut the *prima facie* case that it is proceeding on false factual allegations and misrepresentations of existing law. Nora has made a *prima facie* case that OLR is proceeding against Nora in violation of her fundamental rights to due process by selectively and vindictively prosecuting her in an attempt to punish her for engaging in the lawful activity of practicing law as an officer of this Court. Jurisdiction to proceed against an officer of the Wisconsin Supreme Court does not arise from false factual allegations and misrepresentations of

law. The *Franks* remedy must be granted. The false factual allegations and misrepresentations of law in the Amended Complaint which OLR does not argue it reasonably believes are true must be disregarded. The remaining allegations must be considered the operative complaint. If the remaining allegations which survive the *Franks* remedy constitute cause to proceed against Nora, jurisdiction to proceed will be established (subject to appeal). Nora then will file her Answer in the time required by Wis. Stats. sec. 802.06(1). If the remaining allegations after the false and misrepresented allegations are stricken do not constitute cause to proceed against Nora, this case must be dismissed on the grounds that OLR lacked jurisdiction to initiate this action. Finally, Count Three must be dismissed because there are no facts whatsoever to support Count Three and, given opportunity to do so, OLR failed to support the charge against Nora identified as Count Three.

Dated at Madison, Wisconsin this 14th day of April, 2016.

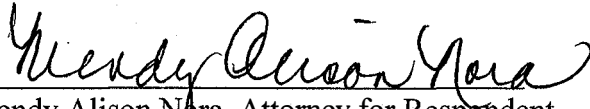
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SHALL HAVE THE SAME FORCE AND EFFECT AS
THE ORIGINAL



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CERTIFICATION OF LENGTH OF REPLY BRIEF

The Respondent certifies that the Reply Brief consists of 10 pages of typewritten text, exclusive of the case caption and signature block.


Wendy Alison Nora, Attorney for Respondent

APPENDIX I

STATE OF WISCONSIN

IN THE SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST, WENDY ALISON NORA,
ATTORNEY AT LAW

CASE CODE 30912

OFFICE OF LAWYER REGULATION

CASE NO. 2015AP002442-D

Complainant;

WENDY ALISON NORA

Respondent.

DECISION ON ALL PENDING MOTIONS

PROCEDURAL HISTORY

This disciplinary case was commenced with the filing of a complaint by OLR on November 30, 2015. I was appointed referee on January 7, 2016.

At the time the complaint in this disciplinary was filed, there was another pending disciplinary action against Attorney Nora known as Case Number 2013AP000653-D. For convenience, the parties have referred to the first pending disciplinary case as “Nora #1.” This disciplinary case has been referred to as “Nora #2.”

Nora #1 has been pending since March 20, 2013. The case is highly contested and there have been voluminous motions, pleadings, and filings in that case. OLR has explained that the allegations contained in the complaint in Nora #2 were presented as part of a proposed amended complaint in Nora #1. The referee in that case did not allow amendment of the complaint to include the additional

charges and OLR then filed this new disciplinary case, after following the procedures set forth in Supreme Court Rules.

I have explained to the parties in this case that I am not the referee in Nora #1 and my duties and responsibilities are limited to the allegations before me in Nora #2.

On January 19, 2016, OLR filed an amended complaint in this case. My review and comparison of the amended complaint with the original complaint reveals minor changes with no new substantial allegations alleged by OLR.

Immediately after my appointment as referee in this case, I was presented with voluminous pleadings, motions, briefs, and exhibits. The filings included, but are not limited to:

1. Verified Jurisdictional Objection and Notice of Motion and Motion for a *Franks* Hearing to Dismiss for Lack of Probably Cause; Further or Alternative Motion to Dismiss for Selective and Vindictive Prosecution; and Further or Alternative Motion to Dismiss as a Sanction for Bad Faith Initiation and Continuation of These Proceedings and the Companion Case Identified Herein as Nora #1.
2. Appendix Part II. Exhibits to Verified Jurisdictional Objection and Notice of Motion and Motion for a *Franks* Hearing to Dismiss for Lack of Probably Cause; Further or Alternative Motion to Dismiss for Selective and Vindictive Prosecution; and Further or Alternative Motion to Dismiss as a Sanction for Bad Faith Initiation and Continuation of These Proceedings and the Companion Case Identified Herein as Nora #1.

I issued a substantial pre-trial scheduling order in this matter after a scheduling hearing was held on February 17, 2016, at 11:00 a.m. The scheduling order directed the Respondent to file any additional motions and supporting briefs and authorities within 20 days of the scheduling order. OLR was given 20 days to file a response. The scheduling order then provided that the Respondent would have 10 days to reply to OLR's arguments. The primary purpose of the scheduling order was to get all motions in front of me so that I could resolve all pending motions in a timely fashion.

Respondent was told she did not need to re-file any motions already filed and that I would consider them as part of my decision. Respondent was also advised that she could file any additional motions, if she wished.

Given Attorney Nora's jurisdictional objections, the scheduling order, over the objection of OLR, allows Attorney Nora to forego the filing of an answer to the amended complaint until the jurisdictional motions are resolved. OLR has objected to that ruling arguing that it is unfair to OLR to have to respond to these motions without having Respondent's answer to the amended complaint.

Both parties complied with the scheduling order and filed briefs and arguments. All time limitations set forth in the scheduling order have now expired and I have reviewed all briefs and documents filed by the respective parties. Given the substantial numbers of motions, appendixes, and arguments filed by the Respondent, I have read, re-read and sometimes read a third time many of her filings.

RESPONDENT'S MOTIONS

Respondent's motions rely in large part on her claim that many of the allegations in the amended complaint are false. Respondent's challenge to the truthfulness of allegations in the amended complaint is the basis upon which she then proceeds with her various motions, which include assertions that there is no probable cause for the amended complaint, that she is entitled to criminal due process, and a general jurisdiction objection.

Arguing that the allegations of the amended complaint are false does not make the allegations false. It is OLR's burden to prove, by clear, satisfactory, and convincing evidence that the Respondent has engaged in misconduct alleged in the amended complaint.

Whether OLR can meet its burden of proof on each allegation is determined by hearing pursuant to Supreme Court rules. The hearing shall be conducted as a trial of a civil action and the rules of civil procedure and evidence shall be followed.

“SCR 22.16 Proceedings before a referee.

(1) The referee has the powers of a judge trying a civil action and shall conduct the hearing as the trial of a civil action to the court. The rules of civil procedure and evidence shall be followed. The referee shall obtain the services of a court reporter to make a verbatim record of the proceedings, as provided in SCR 71.01 to 71.03.”

• • •

I have carefully reviewed the allegations made in the amended complaint. Except for Respondent’s assertions, there is nothing in the allegations that leads me to believe the allegations were not made after investigation and review pursuant to Supreme Court rules. Respondent is not entitled to some kind of “preliminary hearing” during which she can challenge the allegations simply because she says the allegations are false. While the rules of civil procedure allow challenge to a complaint under certain circumstances, the complaint in this case is sufficient to give Respondent notice of the charges against her and comply with procedural due process. Respondent will have the opportunity to challenge all allegations during the disciplinary hearing in this case.

Respondent attempts to change the civil nature of this disciplinary proceeding to a criminal action. Respondent’s argument is that the United States Supreme Court in *In re Ruffalo*, 390 U.S. 544, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968), made disciplinary cases criminal in nature. In that case, the United States Supreme Court was dealing with an attorney disciplinary case. During the course of the hearing in that case, the complainant added an additional charge which the attorney in that case had no knowledge of at the commencement of the hearing. The United States Supreme Court

indicated that disciplinary proceedings are quasi criminal in nature and the subject attorney must be informed of all charges before the disciplinary hearing commences. The United States Supreme Court, in *Ruffalo*, did not make attorney disciplinary proceedings criminal in nature nor did the Court adopt the constitutional due process standards for criminal cases. While the Court said the attorney in *Ruffalo* was entitled to procedural due process, it did not hold that procedural due process accorded to criminal defendants was applicable to attorney disciplinary proceedings.

I note that while the Respondent argues *Ruffalo* was decided over 50 years ago, Respondent is unable to cite any cases that have applied criminal procedures and procedural due process accorded to criminal defendants to attorney disciplinary cases since *Ruffalo*.

Under the false premise that attorney disciplinary cases are controlled by criminal due process, Respondent next argues that she is entitled to a *Franks* hearing based upon *Franks v. Delaware*, 438 U.S. 154, 165, 57 L.Ed.2d 667, 98 S.Ct. 2674 (1978). Respondent cites no authorities in support of her contention that she is entitled to a *Franks* hearing in this civil disciplinary case.

I am unaware of any case decided since *Ruffalo* that supports Respondent's claim that she is entitled to a *Franks* hearing in an attorney disciplinary action. *Franks* dealt with a challenge to the evidence which supported a search warrant in a criminal case. In *Franks*, the United States Supreme Court provided the criteria under which a defendant charged in a criminal case was entitled to challenge the basis for a search warrant in a hearing prior to trial.

This case is not a criminal case and the rules of civil procedure control. No warrants are involved. Respondent is again trying to secure some kind of preliminary or probable cause hearing so that she can challenge the allegations of the amended complaint before the formal hearing. Our

Wisconsin Supreme Court rules do not provide for a “probable cause” hearing and instead set up investigative procedures and a Preliminary Review Panel that provides procedural due process to the Respondent.

Respondent further argues that:

“The Amended Complaint was filed without meeting the jurisdictional requirement of reasonable cause to believe that OLR may prove facts constituting professional misconduct by clear, convincing and satisfactory evidence.” (Respondent’s Reply Brief Page 3.)

SCR 22.001(2) provides that “cause to proceed” means a reasonable belief based on a review of an investigative report that an attorney has engaged in misconduct or has a medical incapacity that may be proved by clear, satisfactory and convincing evidence. OLR does not lose jurisdiction simply because the Respondent claims allegations in the amended complaint are false and were filed without meeting the jurisdictional requirement of reasonable cause. There is nothing before me that suggests OLR filed the amended complaint without the belief that they could meet their burden of proof on all alleged facts.

Respondent’s motion to dismiss for selected and vindictive prosecution must also be denied. Essentially Respondent’s argument is that because of her “actions” in defending herself in Nora #1, OLR has piled on additional charges in the form of Nora #2.

Respondent has provided no evidence or authority to support her claim that OLR is being vindictive. The filing of an additional disciplinary complaint is not proof of vindictiveness and the filing of additional counts are not rare in attorney disciplinary proceedings.

OLR asserts that the allegations of the amended complaint were investigated and went before the Preliminary Review Committee.¹ Supreme Court rules were followed before the additional counts in Nora #2 were filed. Rather than filing an additional disciplinary complaint against Attorney Nora, OLR originally sought to file an amended complaint in Nora #1. The referee in that case denied that motion.

There is nothing before me that would lead me to conclude at this time that OLR is acting in a selective or vindictive manner in filing the amended complaint in Nora #2. OLR cites ample authority for the proposition that they have broad discretion in determining what misconduct counts they will pursue.

In summary, Attorney Nora's motions collectively appear to be an effort to secure some kind of preliminary or probable cause hearing before the actual formal disciplinary hearing in this case. Claiming the allegations of the amended complaint are false and that she is entitled to a probable cause hearing or *Franks* hearing in an attorney disciplinary case are not supported by any cited authorities. The Wisconsin Supreme Court rules control this matter and not Attorney Nora's arguments that this is a criminal case and that she is entitled to procedural due process afforded criminal defendants.

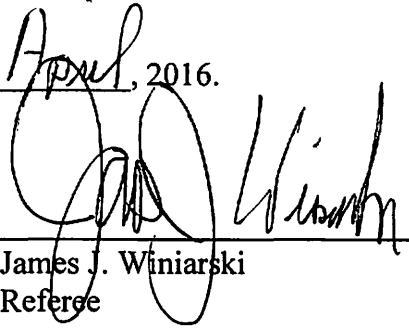
Given the above, there is no basis for Respondent's motions for Sanctions for Bad Faith Initiation and Continuation of Both Cases or her Motion for Sanctions. Both are denied.

All of Attorney Nora's motions are denied. Attorney Nora shall have 20 days from the date of this Decision to file an answer to the amended complaint. There will be no extensions of the 20

¹It is unclear whether the Preliminary Review Committee considered all allegations in both Nora #1 and Nora #2 at the same time or if there was a separate investigation and Preliminary Review Committee review of the evidence that lead to Nora #2.

day time limitation. All remaining terms of the scheduling order issued on February 18, 2016, shall remain in effect and shall be followed by the parties.

Dated at Milwaukee, Wisconsin, this 26 day of April, 2016.



James J. Winiarski
Referee

APPENDIX J

STATE OF WISCONSIN

IN THE SUPREME COURT

In re the Matter of the Disciplinary Proceedings
 Against Wendy Alison Nora,
 Attorney at Law

Case Code: 30912

 Office of Lawyer Regulation,
 Complainant

Case No. 2015AP002442-D

v.

Wendy Alison Nora,
 Respondent

ANSWER AND AFFIRMATIVE DEFENSES;
 CONTINUING OBJECTION AND RESERVATION OF RIGHTS

NOW COMES Wendy Alison Nora, maintaining her special appearance, and, under protest for having been ordered on April 26, 2016 to Answer the January 19, 2016 Amended Complaint filed by the Office of Lawyer Regulation (OLR), for all of the reasons previously set forth on this record and set forth herein, answers, affirmatively defends, continues to object to these proceedings as being filed in violation of her constitutional rights, reserves all of her rights, and shows the Court:

ANSWER

1. Denies ¶1 of OLR's Amended Complaint and affirmatively alleges:

a. OLR is not operating pursuant to Supreme Court rules in the initiation and continuation of proceedings against Nora in this matter, but is pursuing these proceedings without a good faith cause to believe that it can establish the facts which are denied herein by clear, convincing and satisfactory evidence.

b. Upon information and belief, OLR has not pleaded those facts for which cause to proceed was determined in good faith by a panel appointed by the Preliminary Review Committee (PRC).

c. These proceedings were initiated in violation of SCR 22.11(2) which provides:

(2) The complaint shall set forth only those facts and misconduct allegations for which the preliminary review panel determined there was cause to proceed and may set forth the discipline or other disposition sought. Facts and misconduct allegations arising under SCR 22.20 and SCR 22.22 may be set forth in a complaint without a preliminary review panel finding of cause to proceed.

d. Affirmatively alleges that these proceedings do not arise under SCR 22.20 or SCR 22.22.

e. Upon information and belief, because Nora was never provided with the the materials submitted for review of the PRC and to any PRC panel assigned to consider the charged filed in these proceedings, the investigative report was presented in a biased manner, suppressing evidence which would exculpate Nora from the charges of ethics violations, and promoted the charges as an add-on to the pending case of Nora #1, which OLR attempted to accomplish by a Notice of Filing of a Second Amended Complaint in Nora #1 on September 25, 2015.

f. Affirmatively alleges that these proceedings are ultra vires.

g. Affirmatively alleges that these proceedings have been initiated for the purpose of curtailing Nora's litigation activities on behalf of her clients for the benefit of entities operating a scheme to defraud the courts, the public and owners of real estate in Wisconsin and throughout the nation,¹ and has been successful in doing so by burdening Nora's office with responses to

¹ Those entities purport to operate in the "financial industry" and have captured regulatory agencies, including, but not limited, to the United States Department of Justice (USDOJ), the Internal Revenue Service (IRS), the Federal Bureau of Investigation (FBI), the Securities and Exchange

unfounded charges, based on falsely sworn affidavits purporting to authentic forged documents created by Grievant Attorney David M. Potteiger (Potteiger) in Nora #1, following the criminal re-disclosure of Nora's confidential medical records in violation of Wis. Stats. sec. 146.84(2) without a public safety exception.

h. These proceedings have been commenced on the basis of an ultra vires continuing investigation of Nora's litigation practice generated by an open channel between Nora's litigation opponents, OLR investigator Travis J. Stieren (Stieren), and a wholly improper consulting arrangement between OLR Assistant Litigation Counsel, Sheryl St. Ores and Grievant Potteiger, who was asked to provide legal advice and consultation by St. Ores to assist her in the prosecution of Nora.

i. Nora's litigation practice in the defense of property owners against foreclosures seeks to require that the real party in interest appear as plaintiff in judicial foreclosure actions in the State of Wisconsin and prove by a preponderance of authentic evidence (and not upon forged documents and falsely sworn affidavits) that the entity appearing before the court is entitled to the equitable remedy of foreclosure provided at Chapter 846 of the Wisconsin Statutes.

j. OLR's years-long ultra vires continuing investigation of Nora to aid and abet Nora's litigation opponents in their efforts to confiscate the real property interests of Nora's clients who resisted the attempts of mortgage servicers to proceed against them on false pleadings, based on false documents and supported by falsley sworn affidavits, has culminated in these proceedings against Nora, based on over four (4) dozen false factual allegations and almost a dozen

Commission (SEC), the Office of the Comptroller of Currency (OCC), and the United State Treasury and now appear to have captured the Wisconsin Office of Lawyer Regulation.

misrepresentations of law.

2. Admits ¶2 of OLR's Amended Complaint.

3. Denies ¶3 of OLR's Amended Complaint insofar as OLR has characterized the reciprocal discipline entered in *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W. 2d 99 (1993) (hereinafter, the 1993 Decision) and affirmatively alleges:

a. The 1993 Decision speaks for itself.

b. The 1993 Decision was based on actions taken by Nora during the Farm Crisis of the 1980s more than 25 years ago.

c. The conduct for which Nora was sanctioned by the 1993 Decision have not been repeated by Nora.

d. OLR cannot demonstrate that the 1993 Decision is in any way relevant to this matter, except insofar as OLR, which is acting ultra vires, seeks to justify its unauthorized initiation of this case by referring to conduct for which Nora was sanctioned more than 20 years ago.

**Regarding the Spencer Matter
OLR Matter No. 2014MA1570
Counts One-Three**

4. Denies ¶4 of OLR's Amended Complaint and affirmatively alleges that OLR knows or should know that ¶4 is not only factually false but is legally impossible. A mortgage note was not issued to Sheila Spencer in any amount. The allegation in ¶4 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c). Moreover, because Nora has repeatedly attempted to explain the factual falsity and legal impossibility of the allegations in ¶4, ¶4 has been pleaded in violation of SCR 20:3.1(1)(b) and (c), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a).

5. Denies ¶5 of OLR's Amended Complaint and affirmatively alleges:

a. Starting in October, 2008, National City Bank (of Cleveland, Ohio) as the successor in interest to National City Mortgage Company, an Ohio corporation, which merged with National City Bank on October 1, 2008, became the mortgage servicer for the Federal Home Loan Mortgage Corporation (Freddie Mac).

b. National City Bank (of Cleveland, Ohio) refused Ms. Spencer's current loan payment in order to obtain Troubled Asset Relief Program (TARP) funds because it was then and there undercapitalized and was seeking an infusion of taxpayer funds to continue its operations.

c. National City Bank was denied TARP funds.

d. Nora has repeatedly attempted to inform OLR of the true facts underlying the transaction at issue in the Spencer matter and that the allegation in ¶5 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

e. Because Nora has repeatedly attempted to explain the factual falsity of ¶5, ¶5 has been pleaded in violation of SCR 20:3.1(1)(b) and (c), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a).

OLR's heading: Circuit Court: Judge Potter, Counsel, Staff

Nora's heading: The State Court Foreclosure Case Commenced by the Undisclosed Mortgage Servicing Agent for Federal Home Loan Mortgage Corporation (commonly known as Freddie Mac) Now Pending on Appeal to the Wisconsin Court of Appeals, District IV in Case Nos. 2014AP002353 and 2015AP001826

6. Denies ¶6 of OLR's Amended Complaint and affirmatively alleges:

a. "PNC Bank" did not file a foreclosure action as *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 in October, 2008.

b. It is legally impossible for a 2008 foreclosure action to be assigned Case No. 2013TJ49. Year assigned to the filing is 2013 and the designation “TJ” stands for Transcript of Judgment.

c. Nora has repeatedly attempted to inform OLR of the correct case title of the Spencer foreclosure action and its case number.

d. The allegation in ¶6 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

e. Because Nora has repeatedly attempted to explain the factual falsity of ¶6, ¶6 has been pleaded in violation of SCR 20:3.1(1)(a) and (b), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(c).

7. Denies ¶7 of OLR’s Amended Complaint insofar as it implies that Nora became successor counsel to Ms. Spencer in *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 in May, 2012 and affirmatively alleges:

a. Nora has repeatedly attempted to inform OLR of the true facts underlying the transaction at issue in the Spencer matter, the correct case number and the original and subsequent titles of the case and OLR has persistently failed to identify the case in which Nora appeared on Ms. Spencer’s behalf in May, 2012.

b. The allegation in ¶7 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

c. Because Nora has repeatedly attempted to explain the factual falsity of ¶7, ¶7 has been pleaded in violation of SCR 20:3.1(1)(b), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(b).

8. Denies ¶8 of OLR’s Amended Complaint in its entirety, puts OLR to its proof and

affirmatively alleges:

a. OLR has not correctly identified any case in which Nora supposedly made any such allegations or any party or its attorneys in ¶8.

b. It is impossible for Nora to answer ¶8 because OLR does not identify the plaintiff, related entities or attorneys who Nora supposedly alleged were “part of a grand, national mortgage fraud scheme,” except to state that Nora has never alleged that any plaintiff, its related entities, and its attorneys were “part of a grand, national mortgage fraud scheme” orally or in writing at any time.

c. Nora pleads facts in support of defenses against foreclosure which involve allegations of fraud when supported by evidence and where pursuit of such defenses is in the interest of her clients, to the extent that such an undertaking is feasible, based on the limited resources of property owners compared to the unlimited funding available to foreclosure claimants.

d. Nora has repeatedly attempted to inform OLR of the true facts in an existing controversy now on appeal in the Spencer matter, including the correct case number for the Spencer foreclosure case and the various identities which have been used to identify the “plaintiff,” falsely pleaded to be the owner of Ms. Spencer’s Note and Mortgage.

e. OLR persists in failing to identify the case in which Nora is supposed to have alleged that “the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme” after Nora’s extensive responses to OLR’s inquiries into the Spencer matter and after Nora’s motions to dismiss the Complaint and Amended Complaint which specifically state that ¶8 does not identify the Spencer foreclosure case which was filed in the Wood County Circuit Court.

f. OLR has made no effort to identify the correct case upon which it bases its allegations in ¶8 and ¶5-30 and, upon information and belief, has never reviewed the case file in Wood County Circuit Court Case No. 2009CV000283, commenced on April 7, 2009 in the name of *FNMC, a division of National City Bank of Indiana nka National City Bank v. Spencer, et al.*, despite the fact that Nora has long since informed OLR that the entire case file has been located one floor below OLR's office in the Tenney Building, 110 East Main Street, in Madison, Wisconsin 53703 at the Wisconsin Court of Appeals since at least January, 2014 for almost 2 ½ years.

g. The allegation in ¶8 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c). Moreover, because Nora has repeatedly attempted to explain the factual falsity of ¶8, ¶8 has been pleaded in violation of SCR 20:3.1(1)(b), SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(c).

9. Denies ¶9 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. Nora has repeatedly attempted to inform OLR of the case name and case number and has repeatedly directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction may be found and which entire case file has been located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 since early 2014, but OLR has failed and refused to examine the

actual court record for the correct case.

c. OLR has disregarded Nora’s extensive and detailed responses to OLR’s inquiries into the Spencer matter, which fully explicates the issues in the actual, properly identified case.

d. The allegation in ¶9 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

e. Nora has repeatedly attempted to explain to OLR that the law of the State of Wisconsin requires a party seeking to foreclose on Wisconsin real estate to establish that it is the holder of the Note and there is nothing unethical about an attorney for a property owner to require evidence of that fact. ¶9 has been pleaded in violation of SCR 20:3.1(1)(a), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(b).

f. The identity of the party holding the Note is the fundamental issue in Wisconsin foreclosure proceedings because only the holder of the Note, or its authorized agent, is entitled to enforce it. *Dow Family, LLC v. PHH Mortgage Corporation, et al.*, 2014 WI 56, 354 Wis.2d 796, 848 N.W.2d 728 (2014).

g. ¶9 is entirely false and has been knowingly falsely alleged or has been alleged with reckless disregard for the truth in violation of SCR 20:3.3(a)(1), is a product of incompetence in violation of SCR 20:1.1 and/or lack of diligence in violation of SCR 20:1.4 and is falsely pleaded for the purpose of harassing and maliciously injuring Nora in order to “curtail her litigation activities” at the direction of the original grievant in the Nora #1 matter, David M. Potteiger (Potteiger), who is the admitted agent of Fidelity National Financial, Inc. (Fidelity National.)

h. Fidelity National is an entity which, through a single subsidiary (DOCX), is responsible for the filing of more than One Million forged documents in public records

throughout the nation and stands to lose billions of dollars in damages claims if its criminal activities are exposed in civil litigation and converted to judgments for actual and punitive damages.² Fidelity National is a vertically integrated corporation which is the parent company of the notorious Lender Processing Services, Inc., now known as Black Knight Financial, LLC, which operated virtual document creation facilities in Jacksonville, Florida; Mendota Heights, Minnesota; and Las Vegas, Nevada, and continues to operate in Jacksonville, Florida and Mendota Heights, Minnesota.

i. Nora commenced an action against Fidelity National and several of its subsidiaries in the United States District Court for the District of Minnesota in Case No. 14-cv-04449. At the behest of Potteiger, OLR initiated inquiry 2014MA002117 through OLR employees, Assistant Litigation Counsel Sheryl St. Ores (St. Ores) and Investigator Travis Stieren (Stieren) on November 18, 2014, at the behest of Potteiger, as part of an ultra vires “continuing investigation” of Nora’s lawful litigation activities.

j. Responding to the inquiry in 2014MA002117 consumed a substantial amount of Nora’s time and included an abusive and unjustified threat by Stieren against Nora for noncooperation because she asked him some preliminary questions³ and was simply attempting

² Nora is Co-Trustee of a Trust into which substantial litigation assets have been conveyed, consisting in large part of the potential right of recovery of treble damages under the Racketeer Influenced and Corrupt Organizations Act (RICO) (18 U.S.C. sec. 1961, et seq., specifically 18 U.S.C. sec. 1964) and of the RICO Act entitled Crime Related to Racketeering at NRS sec. 207.350., et seq., specifically NRS sec. 207.470.

³ Unbeknownst to Nora until on and after March 31, 2016 when OLR belatedly produced documents on Nora’s First Set of Requests for Written Discovery served on February 4, 2016 and for which she had granted OLR an extension to March 22, 2016 as a professional courtesy at which time OLR failed to comply, Stieren had long-standing dialogue with Potteiger (Exhibit 142 in Nora #1). Yet, when Nora attempted to engage Stieren in a dialogue concerning the application of the *Rooker-Feldman* doctrine and the function of a Pierrienger release in the Fidelity National Inquiry, Stieren threatened to

to establish a dialogue with Stieren).

k. At the time of the “inquiry” identified as 2014MA002117, Nora was not informed that the inquiry was part of an ultra vires “continuing investigation” on behalf of her litigation opponents, being conducted by Stieren, who admitted on April 8, 2016 that there was no authority for a continuing investigation before he suddenly claimed to have an emergency and left the room in which the hearing was being conducted and thereby avoided further examination on the subject.

l. Nora’s extensive cooperation with OLR, which is required by SCR 21.15(4), by which she continuously sought to inform OLR of the factual and legal matters of public concern that she was handling, appears to have had no value to OLR’s understanding of the issues now pending, which are substantially similar to the issues involving the Fidelity National case, except that on January 29, 2016, Stieren advised Nora that Director Sellen determined that the inquiry into 2014MA002117 would not be pursued on the basis that “the facts presented do not provide ‘clear, satisfactory and convincing’ evidence of misconduct.”

10. Denies ¶10 of OLR’s Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. Nora has repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction may be found, which has been located one floor below OLR’s

sanction Nora with a charge of failure to cooperate with an OLR investigation.

office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 since early 2014, but OLR has failed and refused to examine the actual court record for the correct case.

c. OLR has disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully explicates the issues in the actual, properly identified case.

d. The allegation in ¶10 is made in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), SCR 3.3(1)(a) (misrepresentation to a tribunal) and Wis. Stats. sec. 802.05(2)(c).

e. Because Nora has repeatedly attempted to explain the factual falsity of ¶10, ¶10 has been pleaded in violation of SCR 20:3.1(1)(b), SCR 20:3.3(1) and Wis. Stats. sec. 802.05(2)(a).

f. If OLR had correctly identified the case in which Nora has represented Ms. Spencer in the Wood County Circuit Court, Nora's answer to the allegation that "the court determined PNC Bank, N.A. was the correct party plaintiff" would be that there was an interlocutory determination allowing a *third* falsely identified party, appearing in a false capacity as owner of the Note, to attempt to prove that it had the right to foreclose on the real estate owned by Ms. Spencer and that issue is currently on appeal.

g. Furthermore, that the entity identifying itself as "PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC" was allowed to appear in that identity does not mean that, as a matter of fact or law, PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC is entitled to judgment in the correctly identified case because the Amended Complaint in Wood County Circuit Court Case No. 2009CV000283 alleged that the entity is the owner and holder of a certain Note and

Mortgage, which it could not and did not prove by any evidence whatsoever.

11. Denies ¶11 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. Nora has repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction could be found, which case file has been located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 since early 2014, but OLR has failed and refused to examine the actual court record for the correct case.

c. OLR has disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully explicates the issues in the actual, properly identified case.

d. The allegation in ¶11 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

e. Because Nora has repeatedly attempted to explain the factual falsity of ¶11, ¶11 has been pleaded in violation of SCR 20:3.1(1) (b), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2) (c) and, because OLR persists in making the factually false allegations, OLR is in violation of Wis. Stats. sec. 802.05(a).

d. OLR has failed to correctly identify the case or cases in which "[T]hroughout the litigation, Nora accused opposing counsel of fraudulently concealing the identify of the real party in interest and engaging in 'actionable civil fraud and racketeering [that] may constitute state and

federal criminal misconduct.”

e. During the course of her representation of Ms. Spencer, which representation continues to this day in two pending appeals before the Wisconsin Court of Appeals, Nora discovered that the real party in interest in the Spencer case was not the three (3) different names in which the mortgage servicer proceeded against Ms. Spencer.

f. By commencing and continuing the action in three (3) false identities and capacities, the entity which was actually the mortgage servicing agent for Freddie Mac, avoided federal jurisdiction under 28 U.S.C. sec. 1349.

g. Three (3) different names were used to identify the purported to be the “owner and holder” of Ms. Spencer’s mortgage all of which were, in actuality, the mortgage servicing agent for Freddie Mac.

h. Although three (3) different names were used to identify the concealed mortgage servicing agent which never pleaded its capacity as servicing agent, a fact which is no longer in dispute.⁴

⁴ FNMC, a division of National City Bank of Indiana nka National City Bank commenced the foreclosure action against Ms. Spencer on April 7, 2009 and alleged that it “is the owner and holder of a certain note and mortgage” at ¶1 of the initiating Complaint, brought a Motion for Summary Judgment supported by a falsely sworn affidavit of one Mendy Munday, an employee of PNC Bank, N.A., who claimed that the “plaintiff” was the owner of the Note. The Motion for Summary Judgment was filed on March 31, 2010 on a unilaterally altered case caption, identifying PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank as the “plaintiff.” The “plaintiff’s” filings then proceeded under the unilaterally altered case caption identifying PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank, while the plaintiff was still identified as FNMC, a division of National City Bank of Indiana nka National City Bank on the Wood County Circuit Court docket. Upon Ms. Spencer’s challenge to the identity of the entity proceeding against her, PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC was allowed to appear as the plaintiff in the action on December 21, 2012 on an Amended Complaint which still alleged, at ¶1, that it “is the owner and holder of a certain note and mortgage.” The third identified entity was required, as a matter of law, to prove by a preponderance of evidence that it is the owner and

i. Nora admits that in a case unidentified by OLR, she reported that the conduct involved in the attempt to confiscate Ms. Spencer's home for debt not owed to the foreclosure claimant "constitutes actionable civil fraud and racketeering and may constitute state and federal criminal misconduct" because she has a duty to report federal crimes under 18 U.S.C. sec. 4 under penalty of being guilty herself of misprision of a felony.

j. Nora is required to report federal felonies of mail fraud and wire fraud of which she has personal knowledge, to pursue direct appeals allowed by law, and to defend her clients' interests within the bounds of the law. To attempt to punish Nora for doing what the law not only allows her to do, but requires her to do is a violation of her due process rights. See *Bordenkircher v. Hayes*, 434 U.S. 357, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978), "To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort, . . . and for an agent of the State to pursue a course of action whose objective is to penalize a person's reliance on his legal rights [here, Nora's affirmative duties] is "patently unconstitutional."

12. Denies ¶12 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

holder of the (then discharged) Note and (unassigned) Mortgage. The serial plaintiffs concealed their capacity as servicing agent for Freddie Mac until February 18, 2014 when it was finally admitted that PNC Bank, N.A. was acting as the servicing agent for Freddie Mac, as successor to National City Mortgage Company, just as Ms. Spencer had discovered on December 30, 2012 and had contended in litigation since January 10, 2013.

b. Nora has repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction could be found, which case file has been located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 since early 2014, but OLR has failed and refused to examine the actual court record for the correct case.

c. OLR has disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully explicates the issues in the actual, properly identified case.

d. The allegation in ¶12 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(a) and (b).

e. Because Nora has repeatedly attempted to explain the factual falsity of ¶12, ¶12 has been pleaded in violation of SCR 20:3.1(1)(a) and (b), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(c).

f. OLR has not correctly identified the case in which a scheduling conference was held in a matter involving Ms. Spencer's mortgage transaction on May 23, 2012 at which the presiding judge converted a hearing scheduled for summary judgment to a scheduling conference.

g. No scheduling conference was ever held in the non-case identified by OLR.

h. The CCAP entry entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 is not a foreclosure case and is not a civil proceeding at all, but is the record of a judgment in a separate matter.

13. Denies ¶13 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

- a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.
- b. Nora has repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction could be found, which case file has been located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 since early 2014, but OLR has failed and refused to examine the actual court record for the correct case.
- c. OLR has disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully explicates the issues in the actual, properly identified case.
- d. The allegation in ¶13 is made in violation of SCR 20:1.1 (competence) and 20:1.4 (diligence) and Wis. Stats. sec. 802.05(2)(c).
- e. Because Nora has repeatedly attempted to explain the factual falsity of ¶13, ¶13 has been pleaded in violation of SCR 20:3.1(1)(a) and (b), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a).
- f. If OLR had correctly identified the case in which a scheduling conference was held in a matter involving Ms. Spencer's mortgage transaction on May 23, 2012, Nora would have answered that there is a transcript of a hearing on May 23, 2012 in case which OLR has failed to identify and that the transcript speaks for itself.
- g. That at no time in the May 23, 2012 hearing in a case not identified by OLR did the judge in that case state that the list of issues to be identified were to be "issues for summary judgment."

h. In discovery, Nora will demand that OLR produce the copy of all documents in its possession upon which it based its allegation in ¶13 and identify from whom OLR received the document and when it received the documents.

14. Denies ¶14 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. Nora has repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction could be found, which case file has been located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 since early 2014, but OLR has failed and refused to examine the actual court record for the correct case.

c. OLR has disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully explicates the issues in the actual, properly identified case.

d. The allegation in ¶14 is made in violation of SCR 20:1.1 (competence) and 20:1.4 (diligence) and Wis. Stats. sec. 802.05(2)(c).

d. Because Nora has repeatedly attempted to explain the factual falsity of ¶14, ¶14 has been pleaded in violation of SCR 20:3.1(1)(b), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a).

e. If OLR had correctly identified the case in which a proposed order was supposedly sent to Judge Potter and supposedly copied to Nora, Nora would have answered that the record in

the unidentified case shows that a proposed order was mailed to the Court and that Nora did not receive the proposed Order by mail from the attorneys representing the “plaintiff” and would answer that the “plaintiff” was falsely identified three (3) times in the action which OLR failed to correctly identify in this action: the unidentified action first pleaded named “FNMC, a division of National City Bank of Indiana⁵ nka National City Bank⁶” as the Plaintiff on April 7, 2009; then, on March 31, 2010, a Motion for Summary Judgment was filed under a case caption was unilaterally changed to name PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank as Plaintiff; and, finally, on December 21, 2012, the trial court allowed the case caption to be amended to name PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC as Plaintiff.

f. Had OLR identified a case in which Nora represented Ms. Spencer in which a proposed order was supposedly mailed to her and in which she does not dispute that a proposed order was sent to the Court, Nora would have affirmatively alleged that the proposed order

⁵ National City Bank of Indiana ceased to exist on July 21, 2006, when it merged into National City Bank (of Cleveland). A case filed on April 7, 2009 would not have been captioned in the name of National City Bank of Indiana nka National City Bank, except for the purpose of deception. A merger occurred on July 21, 2006, not a name change. The correct case caption for an action commenced on April 7, 2009 would have been National City Bank, successor by merger to National City Bank of Indiana, but for the attempt to deceive Ms. Spencer into admitting false ¶1.

⁶ The abbreviation “nka” is presumed to mean “now known as.” FNMC was a trade name for National City Mortgage Company, an Ohio corporation, under which National City Mortgage Company did business in Maryland. The Maryland trade name registration expired on February 18, 2008. National City Bank ceased to exist on November 9, 2009. The proposed order, which was not received by Nora until it was retrieved directly from the Wood County Circuit Court record by Ms. Spencer, was captioned PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank and was unilaterally altered by Freddie Mac’s mortgage servicer without a motion substitute or ratify the action or to amend the case caption on behalf of the entity claiming to be the “owner” of Ms. Spencer’s (discharged) Note and (unassigned) Mortgage.

speaks for itself and that the proposed order referred to listing issues for summary judgment, whereas nowhere on the record of the proceeding on May 23, 2012 did the Court state that the list of issues would pertain to summary judgment. Freddie Mac's mortgage servicer was attempting to prevent Ms. Spencer from obtaining relief on the basis of the issues raised by Nora, which were not limited to issues for summary judgment.

g. In discovery, Nora will demand that OLR produce the copy of all documents in its possession upon which it based its allegation in ¶14 and identify from whom OLR received the document and when it received the documents.

15. Denies ¶15 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce the copy of the letter, proposed order and affidavits of mailing in its possession and identify from whom OLR received the document and when it received the documents.

c. Upon information and belief, OLR could not have received a letter, proposed order and affidavits from the court record because it has not reviewed the court record or it would have correctly identified the case in which the scheduling conference occurred on May 23, 2012.

d. Upon information and belief, ¶¶7-15 are not alleged based on OLR's investigation of the contents of the court records in an actual case, but are based on allegations made by Attorney William N. Foshag in an ultra vires "continuing investigation" of Nora's litigation on behalf of herself and her clients, and which has never been presented to the Preliminary Review

Committee for a determination of cause to proceed under SCR 22:11 prior to the filing of the Complaint in these proceedings.

e. Had OLR correctly identified a case in which a letter, proposed order and affidavits were submitted to Wood County Circuit Court Judge Potter, she would have answered that she did not receive a copy of the documents until they were retrieved, at her direction, directly from the Wood County Circuit Court Clerk by Ms. Spencer, after the order was signed by Judge Potter in a case which has not been correctly identified by OLR.

16. Denies ¶16 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce the copy of Judge Potter's letter enclosing a copy of a signed order in its possession and identify from whom OLR received the document and when it received the documents.

c. OLR could not have received the letter and signed order because it has not reviewed the court record or it would have correctly identified the case in which the scheduling conference occurred on May 23, 2012.

d. There is no letter from Judge Potter enclosing a signed order in the court record of an actual case.

e. ¶16 is a false allegation, knowingly or recklessly made in violation of SCR 20:3.3(a)(1) because there is no letter from Judge Potter enclosing a copy of any signed order in the record of the actual case.

f. Upon information and belief, OLR is manufacturing fictitious facts, has obtained false information from Grievant William N. Foshag, or simply orally inquired of some unidentified witness as to whether or not a letter was sent to Nora, which no one from OLR ever verified by simply walking down one flight of stairs in the Tenney Building (or taking the elevator) to examine the complete court record of the actual case, which has been located at the Clerk of Appellate Court's office in Suite 215 of the Tenney Building since early, 2014, almost two (2) years before these proceedings were initiated (apparently, without determination of the facts allegedly constituting misconduct by a panel of the PRC).

17. Denies ¶17 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce the copy of any evidence in its possession upon which it relies to plead ¶17.

c. OLR has knowingly or recklessly falsely alleged that Judge Potter ever sent any order, final or otherwise, in any case which Nora has denied receiving.

d. ¶17 is a complete fiction and is a false allegation made in violation of SCR 20:3.3(a)(1).

18. Denies ¶18 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶18.

c. ¶18 is a complete fiction and is a false allegation knowingly or recklessly made in violation of SCR 20:3.3(a)(1).

d. Had OLR identified an actual case in which Nora made an assertion regarding ex parte communications involving a letter sent by Judge Potter enclosing a copy of a signed order, she would have affirmatively defended against the allegation that she did not make any such assertion in the correctly identified, actual case because Judge Potter never sent any such letter.

19. Denies ¶19 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶19.

c. ¶19 is a complete fiction and is a false allegation knowingly or recklessly made in violation of SCR 20:3.3(a)(1).

d. Had OLR identified an actual case in which Nora made an assertion regarding ex parte communications, she would have affirmatively defended against the allegation that she did not make any such assertion in the correctly identified, actual case regarding any written communications between Judge Potter and "plaintiff's" counsel.

e. In the actual case, never identified by OLR, Nora's assertions speak for themselves and Nora would have affirmatively defended that her assertions were based on a good faith belief,

based on evidence in her possession, at the time the assertions were made.

f. In the actual case, Nora's assertions regarding ex parte communications were not based on **letters** dated March 31, 2010, February 17, 2011 or June 20, 2011 and Nora's contentions regarding ex parte communications are in writings which speak for themselves.

20. Denies ¶20 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶20.

c. There was never any dispute that the affidavit of mailing referenced in ¶20 was filed in an actual case.

d. Had OLR identified an actual case in which an affidavit related to a March 31, 2010 letter was filed, Nora would have affirmatively alleged that the issues of ex parte communications she raised in an actual case, not identified by OLR, did not involve any issue related to whether or not a March 31, 2010 letter was mailed to Ms. Spencer.

21. Denies ¶21 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶21.

c. OLR fails to plead the fact that there are two letters dated February 17, 2011, which form the basis of the dispute regarding ex parte communications in an actual case.

d. Had OLR identified an actual case in which a February 17, 2011 letter was filed, Nora would have affirmatively alleged that the issues of ex parte communications she raised in an actual case, not identified by OLR, was that there are two (2) versions of a February 17, 2011 letter: one was sent to the Court and refers to an “affidavit issue” and one, sent to Ms. Spencer, which does not mention an “affidavit issue.”

e. The two (2) different versions of the February 17, 2011 letter are both in the court record, presently located at the Clerk of Appellate Courts in the Tenney Building, and were submitted under an order allowing the record to be supplemented.

f. Both versions of the February 17, 2011 letter are also a part of the record before the Seventh Circuit Court of Appeals in No. 13-2676.

g. In the actual case, not identified by OLR, the issue does not involve a “letter” dated June 20, 2011. It involves an order entered on June 21, 2011, entered without notice and hearing to Ms. Spencer.

22. Denies ¶22 of OLR’s Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶22.

c. Had OLR identified an actual case, Nora would have affirmatively defended on the

grounds an attorney has a duty to move to disqualify a judge believed in good faith to be engaging in or influenced by ex parte communications.

23. Denies ¶23 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶23.

c. Had OLR identified an actual case, Nora would have denied ¶23 because it is false and that OLR knows or should know that the allegation in ¶23 is false because, in an actual, unidentified case, Nora did not know that the third page of the transcript was missing until Ms. Spencer inspected the court record in October, 2012 and informed Nora that the copy of the transcript of the May 23, 2012 hearing on file in the Wood County Clerk of Circuit Court contained a page which was not included in the transcript sent to Nora and sent page 3 of the transcript to Nora. Upon being thus informed, Nora corrected the record as required by SCR 20:3.3(a)(1) forthwith.

24. Denies ¶24 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶24.

c. Had OLR identified an actual case in which Nora referred to a May 23, 2012 transcript and when she allegedly made the statements alleged, she could form an answer to ¶24.

d. Identifying word variances in transcripts between what was spoken and what was recorded is not an ethics violation in any case and is the responsibility of counsel who ordered the transcript.

25. Denies ¶25 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶25.

c. Had OLR identified an actual case in which Nora referred to a May 23, 2012 Transcript, she would form an answer to ¶25, but no further answer is necessary because OLR has failed to identify an actual case in which Nora represented Ms. Spencer.

d. In general, however, an attorney has a duty to assure that a full and complete copy of a verbatim transcript ordered for use in a proceeding is accurate.

26. Denies ¶26 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶26.

c. Had OLR identified an actual case in which Nora referred to a May 23, 2012 transcript, she would form an answer to ¶26, but no further answer is necessary because OLR has failed to identify an actual case in which Nora represented Ms. Spencer.

d. In general, however, an attorney has a duty to assure that a full and complete copy of a verbatim transcript ordered for use in a proceeding is accurate.

e. Pleading only in the alternative, despite the fact that ¶26 of the Amended Complaint refers to no case in which Nora represented Ms. Spencer, in an actual case, a verbatim transcript was ordered, the complete transcript was necessary for Ms. Spencer's case and that there is no basis in fact or law for OLR to allege that it is unethical for an attorney to require the production of a true and correct copy of a verbatim transcript of proceedings. OLR's allegation in ¶26 falsely implies that Nora engaged in unethical conduct by requiring the production of a true and correct copy of a verbatim transcript in an unidentified case.

27. Denies ¶27 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶27.

c. Had OLR identified an actual case in which Nora referred to a May 23, 2012 transcript and when she allegedly made the statements alleged, she would form an answer to ¶27.

d. Pleading only in the alternative, despite the fact that ¶27 of the Amended Complaint refers to no case in which Nora represented Ms. Spencer, Nora has never alleged that Judge

Potter and the court clerk intentionally manipulated the court record in any case.

e. The allegation in ¶27 is false, OLR knows or should know that it is false, and ¶27 is knowingly or recklessly falsely made.

f. The allegation in ¶27 is made in violation of SCR 20:3.3(a)(1) and, having been given opportunity to correct ¶27, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶27, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

28. Denies ¶28 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶28.

c. Had OLR identified an actual case in which Nora referred to a May 23, 2012 transcript and when she allegedly made the statements alleged, she would form an answer to ¶28.

d. Pleading only in the alternative, despite the fact that ¶28 of the Amended Complaint refers to no case in which Nora represented Ms. Spencer, in an actual case, after the complete transcript was found to have been filed in the record of the Wood County Circuit Court at the end of October, 2012 (an incomplete transcript was sent to Nora in June, 2012), Nora informed the Court that a missing page of the May 23, 2012 had been located when she corrected the record in that case as required by SCR 20:3.3(a)(1) promptly, in early November, 2012.

29. Denies ¶29 of OLR's Amended Complaint in its entirety, puts OLR to its proof and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶29.

c. Had OLR identified an actual case in which Nora filed a July 23, 2012 Amended Motion, she would form an answer to ¶29.

d. Pleading only in the alternative, despite the fact that ¶29 of the Amended Complaint refers to no case in which Nora represented Ms. Spencer, Nora moved to disqualify Judge Potter in an existing case and filed an Amended Motion for the Disqualification of Judge Potter for actual bias on or about July 23, 2012.

e. The characterization of the written Amended Motion is substantially inaccurate and is recklessly made. The Amended Motion filed on or about July 23, 2012 in an actual case speaks for itself and once again OLR has violated SCR 20:1.1 (competence), SCR 20:1.4 (diligence) and by making a recklessly false allegation because it has not competently investigated the facts it has alleged and has not diligently examined the court record in an actual case, OLR is in violation of SCR 20:3.3(a)(2).

f. Having been given opportunity to correct ¶29, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶29, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

30. Denies ¶30 of OLR's Amended Complaint in its entirety, puts OLR to its proof, and affirmatively alleges:

a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood

County Case No. 2013TJ49 filed in October, 2008 or at any other time.

b. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶30.

c. Had OLR identified an actual case in which Nora filed a July 23, 2012 Amended Motion, she could form an answer to ¶30.

d. Pleading only in the alternative, despite the fact that ¶26 of the Amended Complaint refers to no case in which Nora represented Ms. Spencer in which such any motion was filed, the allegation in ¶30 is made in violation of SCR 20:3.3(a)(1) and, having been given opportunity to correct ¶30, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶30, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

e. The characterization of the written Amended Motion is substantially inaccurate and is recklessly made. The Amended Motion in an actual case speaks for itself and once again OLR has violated SCR 20:1.1 and SCR 20:1.4 by making recklessly false allegations because it has not competently investigated the facts it has alleged and has not diligently examined the court record in an actual case.

f. Having been given opportunity to correct ¶30, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶30, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

OLR's heading: U.S. District Court: Judge Crabb

Nora's heading: The Removal of Ms. Spencer's Foreclosure Case to the United States District Court for the Western District of Wisconsin

31. Denies ¶31 of OLR's Amended Complaint in its entirety, puts OLR to its proof and

affirmatively alleges:

- a. There is no foreclosure case entitled *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 filed in October, 2008 or at any other time.
- b. On January 10, 2013, there was no motion for summary judgment pending against Ms. Spencer in Wood County Circuit Court Case No. 2013TJ49.
- c. In discovery, Nora will demand that OLR produce any and all evidence in its possession which supports its allegation in ¶31.
- d. Had OLR identified an actual case in which Nora what OLR alleges is a January 10, 2013 “motion to remove the case to the U.S. District Court for the Western District of Wisconsin, U.S. District Court Judge Barbara A.(sic, middle initial B.) Crabb (Judge Crabb) presiding, Nora would have answered.
- e. Pleading only in the alternative, despite the fact that ¶31 of the Amended Complaint refers to no case in which Nora represented Ms. Spencer in which such any motion was filed:
 - (1) The procedure for removal of state court civil actions, including class actions, to federal jurisdiction is generally governed by 28 U.S.C. sec. 1441-1453.
 - (2) Removal is effective upon the filing of a Notice of Removal and is not brought by motion.
 - (3) That OLR is pleading that federal jurisdiction is based on the filing of a motion, demonstrates that OLR has not read the voluminous responses Nora made to its purported inquiry in OLR Matter No. 2014MA1570, her two (2) Motions to Dismiss the November 30, 2015 Complaint and the January 19, 2016 Amended Complaint, or her proposed Complaint based on true facts filed in connection with the *Franks* Motion portion of the Motion to Dismiss.

(4) OLR's ¶31 is made in violation of SCR 20:3.3(a)(1) and, having been given opportunity to correct ¶31, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶31, OLR is in violation of Wis. Stats. sec. 802.05(2) (a).

32. Admits ¶32 of OLR's Amended Complaint and affirmatively alleges:

a. On December 30, 2012, Nora and Spencer discovered evidence that the real party in interest in the foreclosure case filed in Wood County Circuit Court Case No. 2009CV000283 in the name of FNMC, a division of National City Bank of Indiana nka National City Bank was Freddie Mac.

b. Based on the discovery of that evidence, Nora removed Wood County Circuit Court Case No. 2009CV000283 to the United States District Court for the Western District of Wisconsin on January 10, 2013, within 30 days of discovery grounds for federal jurisdiction under 28 U.S.C. sec. 1349.

33. Admits ¶33 of OLR's Amended Complaint.

34. Denies ¶34 of OLR's Amended Complaint and affirmatively alleges:

a. The brief opposing remand, which OLR has either not read or is incapable of comprehending, speaks for itself.

b. Upon information and belief, OLR has not read Ms. Spencer's March 4, 2013 Brief in Response to the February 8, 2013 Motion for Remand, filed in the name of "PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC" and its failure to do so violates SCR 20:1.1 and 20:1.4. As a result of such failure, the allegation in ¶34 is a false characterization of Ms. Spencer's

Opposition to Remand, which speaks for itself.

35. Denies ¶35 of OLR's Amended Complaint and affirmatively alleges:

a. March 25, 2013 Opinion granting the Motion for Remand speaks for itself.

b. OLR falsely claims the March 25, 2013 Opinion held that "federal jurisdiction did not attach to the Spencer case" in violation of SCR 20:3.3(a)(1).

c. The allegation in ¶35 violates SCR 20:1.1 (competence) because OLR apparently does not understand that federal jurisdiction immediately and automatically attaches to cases in which a Notice of Removal is filed pursuant to 28 U.S.C. sec. 1446(a).

d. The false pleading of ¶35 violates Wis. Stats. sec. 802.05(2)(b) and (c) because it is both knowingly or recklessly factually false and makes a legal contention not supported by existing law or a good faith argument for the extension or modification of existing law.

e. Because Nora extensively responded to OLR's inquiry in OLR Matter No. 2014MA1570 and essentially provided an appellate brief on the issues of removal jurisdiction, her theory for the removal and the factual and legal bases for the removal, OLR's allegation in ¶35 indicates that OLR (1) violated SCR 20:1.1 (competence) by failing to comprehend the law of removal jurisdiction; and (2) failed to research the law of removal jurisdiction in violation of SCR 20:1.4.

f. Upon information and belief, OLR has not read the March 25, 2013 Opinion which it falsely claims held that "federal jurisdiction did not attach the Spencer case" or, if OLR read the Opinion, it did not comprehend it, in violation of violates SCR 20:1.1 (competence) and 20:1.4 (diligence).

g. The falsity of the allegation violates Wis. Stats. sec. 802.05(b).

36. Admits ¶36 of OLR's Amended Complaint.

37. Admits ¶37 of OLR's Amended Complaint and affirmatively alleges that the Motion for Reconsideration on the issue of attorney's fees is not frivolous because courts maintain continuing jurisdiction over the issue of attorneys fees after remand.

38. Denies ¶38 of OLR's Amended Complaint and affirmatively alleges:

- a. Insofar as ¶38 states that the second motion for reconsideration was summarily denied.
- b. The decision was entered on the second motion for reconsideration, which included further award of attorney's fees against Ms. Spencer for seeking relief from the first award of attorney's fees, alleged to be an abuse of discretion.
- c. At the very least, the only possible legal conclusion arising from the denial of the second motion for reconsideration which also awarded attorney's fees is that the motion was not summarily denied.
- d. That OLR would allege that the second motion for reconsideration was summarily denied is consistent with the fictional narrative OLR constructed in these proceedings. While Nora enjoys good fiction as much as most, legal proceedings are not lawfully commenced by pleadings which are works of fiction and fictional pleadings violate SCR 20:3.1, Wis. Stats. sec. 802.05.

39. Lacks sufficient information to admit or deny ¶39 of OLR's Amended Complaint and accordingly denies ¶39 and puts OLR to its proof. Nora will seek to discover what evidence OLR has in its possession that supports ¶39. For avoidance of doubt, Judge Barbara B. Crabb has not restrained herself, when addressing legal issues raised in Nora's cases, from making personal remarks about Nora's efforts to represent her clients which were unnecessary to the

disposition of the issues involved in Nora's cases and are not based in facts in the record and which appear to have been designed to cause her clients to have doubts about Nora's professional performance, contrary to the Standards for Professional Conduct Within the Seventh Circuit.⁷

40. Admits ¶40 of OLR's Amended Complaint.

41. Lacks sufficient knowledge and information to admit or deny ¶41 of OLR's Amended Complaint and, accordingly denies ¶41 and puts OLR to its proof.

42. Admits ¶42 of OLR's Amended Complaint and affirmatively alleges that the unauthorized release of medical records filed under seal is an invasion of privacy, which is a species of libel.

43. Denies ¶43 of OLR's Amended Complaint and affirmatively alleges:

a. Judge Crabb is immune from suit for libel under the doctrine of judicial immunity and the issue of her decisional invasion of privacy was raised in the context of Nora's standing to appeal from the order granting attorney's fees on the remand order and has, as expected, led to this very proceeding.

b. Whether an attorney has standing to appeal from nonfinancial or indirect financial injury arising from a district court decision is treated differently from circuit to circuit and constitutes a circuit court split, which may eventually be heard by the United States Supreme Court.

⁷ Violations of the *Professional Standards Within the Seventh Circuit* are manifest in the conduct of some of the Circuit Court Judges, who seem to thrive on frequently criticizing the advocates who appear before them. Because some of the Circuit Court judges do not hold themselves to the standards they have publicly set, it is regrettable but not surprising that the district court judges feel free to engage in ad hominem attacks on attorneys who advocate unpopular causes, contrary to ¶2 of the Court's Duties to Counsel. Few causes today are more unpopular than foreclosure defense, which threatens to expose a corrupt financial system. Nora's integrity and professionalism has been impugned for the cause she represents, contrary to ¶9 of the Professional Standards Within the Seventh Circuit.

c. The best way to avoid attempts to appeal from factually unsupported and irrelevant damaging and injurious remarks directed against attorneys is for district court judges not to make them.

44. Lacks sufficient information to admit or deny ¶44 of OLR's Amended Complaint and, accordingly denies the same and puts OLR to its proof.

45. Admits ¶45 and affirmatively alleges that, whereas Judge Crabb has judicial immunity from suit for libel for damaging personal remarks against attorneys and parties in the judicial decision-making process, she is not immune from suit for her nonjudicial acts.

46. Admits ¶46 of OLR's Amended Complaint and affirmatively alleges:

a. Ms. Spencer had the right to appeal from the award of attorney's fees against her;

b. Nora has an obligation to indemnify Ms. Spencer from the award of attorneys' fees and costs resulting from her decision to follow Nora's advice to file the Notice of Removal on January 10, 2013.

47. Admits ¶47 of OLR's Amended Complaint and affirmatively alleges:

a. Nora planned to raise the issue of the circuit split by Petition to the United States Supreme Court but was unable to do so because of the intervening September 14, 2014 car accident injury.

b. Nora had a good faith basis to seek a modification of Seventh Circuit precedent to conform to the law of the circuits who have acknowledged the standing of attorneys to appeal from decisions which caused them nonfinancial or indirect financial injury.

48. Admits ¶48 of OLR's Amended Complaint and affirmatively alleges that she appealed from the award of attorney's fees against Ms. Spencer to the Seventh Circuit because

she has an obligation to indemnify Ms. Spencer from the award of attorneys' fees and costs resulting from her decision to follow Nora's advice to file the Notice of Removal on January 10, 2013 and planned (but for the intervening September 14, 2014 car accident injury) to seek a modification of Seventh Circuit precedent to conform to the law of the circuits who have acknowledged the standing of attorneys to appeal from decisions which caused them nonfinancial or indirect financial injury.

49. Admits ¶49(a) and (c) of OLR's Amended Complaint, in part, and only to the extent that a reasonable interpretation of the August 13, 2014 Decision of the Seventh Circuit Court of Appeals in Case No. 13-2676 (the August 13, 2014 Decision) supports the characterization contained in ¶49(a) and ¶49(c), denies ¶49(b) and affirmatively alleges:

a. ¶49(b) is false and knowingly or recklessly falsely pleaded in the context of the August 13, 2014 Decision.

b. Once again, it appears that OLR has not read the August 13, 2014 Decision and is in violation of SCR 20:1.4 (diligence).

c. Because it appears that OLR has not read the August 13, 2014 Decision and is required, at a minimum, to read a decision upon which it relies in making an allegation in a formal Complaint, OLR is also in violation of SCR 20:1.1 (competence).

50. Admits ¶50 of OLR's Amended Complaint.

51. Admits, in part, and denies, in part, ¶51 of OLR's Amended Complaint and affirmatively alleges:

a. Denies ¶51(a) to the extent that it implies that the August 27, 2014 petition for rehearing en banc was filed in response to the August 20, 2014 Order to Show Cause and filing a

petition for rehearing en banc is conventional appellate practice before the United States Courts of Appeal, which always involves the presentation of the issues of fact and law which were erroneously decided by the panel. OLR appears to violate SCR 20:1.1 (competence) by alleging ¶51(a) because any competent attorney should know what a Petition for Rehearing En Banc is in federal appellate practice or at least be able to read the rule which provides for it as required by SCR 20:1.1 (competence) and SCR 20:1.4(diligence).

b. Admits ¶51(b) in that Nora did file a partial response to the Order to Show Cause, which she was ordered to file on August 20, 2014.

c. Denies ¶51(c) insofar as it implies that the September 19, 2014 motion to stay mandate was filed in response to the August 20, 2014 Order to Show Cause because a Motion to Stay the Mandate pending consideration of whether or not an appeal should be taken to the United States Supreme Court is conventional appellate practice before the United States Courts of Appeal. OLR appears to violate SCR 20:1.1 (competence) by alleging ¶51(c) because any competent attorney should know what a Motion to Stay the Mandate is in federal appellate practice or at least be able to read the rule which provides for it as required by SCR 20:1.1 (competence) and SCR 20:1.4(diligence).

d. Admits ¶51(d) insofar as Nora filed a citation to additional authority on October 3, 2014, which is allowed under the Federal Rules of Appellate Procedure and the Rules of the Seventh Circuit Court of Appeals.

e. Denies ¶51(e) insofar as OLR states that the car accident injury was mild; Nora stated that she was suffering from a mild cognitive impairment as a result of a car accident injury and did not state that the injury itself was mild; Nora suffers from the car accident injury to this day.

Affirmatively alleges that even with a mild cognitive impairment, an attorney is incapacitated from competent performance in litigation. Further affirmatively alleges that the request for postponement of the hearing on the Order to Show Cause was not a “response” to the Order to Show Cause and was made necessary by an intervening car accident injury.

52. Denies ¶52 of OLR’s Amended Complaint and puts OLR to its proof.

53. Admits ¶53 of OLR’s Amended Complaint.

54. ¶54 of OLR’s Amended Complaint is duplicative of ¶50(c) and Nora answers, again:

That the September 19, 2014 Motion to Stay the Mandate was not filed in response to the August 20, 2014 Order to Show Cause and is conventional appellate practice before the United States Courts of Appeal.

55. Denies ¶55 of OLR’s Amended Complaint and affirmatively alleges:

a. The Order of October 2, 2014 entered by the Seventh Circuit Court of Appeals in No. 13-2676 was not final until time for moving for panel rehearing or for rehearing en banc expired, which, had Nora not been injured in a car accident on September 14, 2014, Nora would have sought.

b. The Order of October 2, 2014 became final on October 18, 2014, when Nora did not file a motion for panel rehearing or rehearing en banc under Fed. R. App. P. 40 and Seventh Circuit Local Rule 40.

c. It appears that OLR did not read the Federal Rules of Appellate Procedure when it alleged that the October 2, 2014 Order in Seventh Circuit Court of Appeals No. 2676 in violation of SCR 20:1.4 (diligence) insofar as OLR alleges that the Order entered on October 2, 2014 was a final Order .

56. Admits ¶56 of OLR’s Amended Complaint and affirmatively alleges:

a. The Order of October 2, 2014 entered by the Seventh Circuit Court of Appeals in No. 13-2676 on October 2, 2014 did not involve the Order to Show Cause issued to Nora on August 20, 2014.

b. It appears that OLR has not read the record of the proceedings before the Seventh Circuit Court of Appeals in No. 2676 in violation of SCR 20:1.4 (diligence) because OLR falsely alleged at ¶49(b) that an Order sanctioning Nora was entered on August 13, 2014 and in ¶56, OLR alleges that the yet-to-be final Order of October 2, 2014 “was silent on the issue of whether it would issue any additional sanction against Nora.”

c. Affirmatively alleges that the Order to Show Cause hearing was not scheduled to be heard until October 28, 2014 and it was not possible that any sanctions would be issued against Nora, initial or additional, until on or after that date.

d. OLR’s allegation in ¶56 was pleaded in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence) and is a misrepresentation of fact in violation of SCR 20:3.3(a)(2) which OLR knows or should know to be false.

57. Admits ¶57 of OLR’s Amended Complaint and affirmatively alleges that there is nothing unethical about submitting additional authority to an appellate court, when pertinent new law becomes available after an issue is submitted to the Court.

58. Admits ¶58 of OLR’s Amended Complaint.

59. Admits ¶59 of OLR’s Amended Complaint, to the extent that it is a verbatim quotation of a portion of the February 11, 2015 Decision of the Seventh Circuit Court of Appeals resulting from the October 28, 2014 hearing on the August 20, 2014 Order to Show Cause and affirmatively alleges:

a. Nothing in the February 11, 2015 Decision supports an allegation that Nora knowingly or recklessly violated SCR 20:3.1(a) or (b) by removing the state court foreclosure action and there is nothing in the verbatim quotation which covers more than 2 pages of single-spaced text which supports a finding that Nora violated SCR 20:3.1(c).

b. Nothing in the February 11, 2015 Decision supports an allegation that Nora violated SCR 20:3.2 by appealing from the awards of attorneys' fees in Seventh Circuit Case No. 13-2676.

b. It appears that OLR cannot find any facts or law appearing in the verbatim text starting at the bottom quarter page of page 10 of OLR's Amended Complaint and covering the entire pages 11 and 12 of OLR's Amended Complaint to support its allegation of any ethics violation whatsoever because nothing in the verbatim quotation covering more than 2 pages, in single-spaced format supports a finding of any violation of the Wisconsin Rules of Professional Conduct.

c. Nora made no argument to the district court following the March 25, 2013 Order for Remand to change the existing law which deprives the district court of jurisdiction to reconsider a remand order because she never sought reconsideration of the remand order. She sought reconsideration of the award of attorney's fees, over which the Court had continuing jurisdiction.

60. Admits ¶60 of OLR's Amended Complaint, to the extent that it is a verbatim quotation of a portion of the February 11, 2015 Decision of the Seventh Circuit Court of Appeals in No. 2676 resulting from the October 28, 2014 hearing on the August 20, 2014 Order to Show Cause.

COUNT ONE

61. Denies ¶61 of OLR's Amended Complaint and affirmatively alleges that OLR has failed to support ¶61 with any factual allegations to support the several conclusions of law contained therein, to wit:

a. That Nora knew or should have known that there was no colorable basis for federal jurisdiction when it was discovered that Freddie Mac was the real party in interest claiming to own Ms. Spencer's discharged Note and the unassigned mortgagee interest on her home as required by SCR 20:3.1(a)(1), when 28 U.S.C. sec. 1349 establishes federal jurisdiction in cases in which the real party in interest is a federally-chartered corporation in which the United States owns more than a 50% interest, which Freddie Mac was and still is.

b. That Nora knowingly asserted a factual position which was frivolous, when it is was discovered and is now undisputed that the party claiming the beneficial interest in the unassigned mortgage granted in the name of FNMC, a division of National City Bank of Indiana (a nonexistent entity) was indeed Freddie Mac so that Nora advanced a position based on evidence of a true fact which is now undisputed, so that Nora could not have violated SCR 20:3.1(a)(2).

c. That it was obvious to Nora that the removal action would serve merely to harass or maliciously injure another, when, in fact, Nora had a good faith basis for her belief that the January 10, 2013 removal to federal court was justified by the December 30, 2012 discovery that Freddie Mac, a federally-chartered corporation in which more than 50% of the capital stock was (and is) owned by the United States, which was (and is) in the conservatorship of the Federal Housing Finance Agency (FHFA), and whose profits are paid to the United States Treasury, was the real party in interest in the Spencer case, which had been concealed by false pleadings by counsel for the falsely identified plaintiff, who claimed to own the (discharged) Note and

unassigned Mortgage, when it did not. OLR fails to identify who Nora intended to harass or maliciously injure by the removal action.

d. No violation of SCR 20:3.1(a)(3) is supported by any facts, whether true or false, in ¶¶4-60 of the Amended Complaint.

COUNT TWO

62. Denies ¶62 of OLR's Amended Complaint and affirmatively alleges:

a. There is no evidence that the appeal delayed the Spencer litigation, which OLR does not even correctly identify.

b. The appeal was from an order granting attorney's fees to a party which has now been shown to have filed false pleadings against Ms. Spencer.

c. Appeals from awards of attorneys' fees delay nothing, not even attempts to collect the attorneys' fees unless a stay is sought and granted (which was never sought).

d. Nora appealed on her own behalf as well as Ms. Spencer because she has a duty to indemnify her client from the award of attorneys' fees.

e. The Seventh Circuit Court of Appeals' precedents which hold that attorneys who are injured by sanctions orders that do not involve a direct order for payment of money is in conflict with the decisions of other circuits, which allow such appeals and Nora had a good faith argument to extend or modify existing Seventh Circuit law to allow attorneys to appeal from district court rulings from nonfinancial or indirect financial injuries which can result in the very kind of proceeding which is now before this Court.

f. It was the false plaintiff in the Spencer case which was removed to federal jurisdiction which delayed the proceedings, not Ms. Spencer:

(1) Nora completely and thoroughly analyzed the delay in the Spencer state court case in her August 5, 2016 Brief in response to the Orders for Briefs entered by Judge William M. Conley on July 24, 2015 (Docs. 5 and 6). As of August 5, 2015 when the calculations were made in order to respond to Judge Conley's Orders, the state court foreclosure case had been pending for 2523 days of which 416 days (or 16.49%) of the delay the in state court case was the result of Ms. Spencer seeking relief in bankruptcy court, seeking 90 days to perform discovery (which was not undertaken by Ms. Spencer's former counsel, who was then relieved of his responsibility for her representation) and removing the case to the United States District Court for the Western District of Wisconsin and that, otherwise, the falsely identified "plaintiff" had unfettered access to the state court for pursuit of its false action against Ms. Spencer. The majority of the delay was attributed to the "plaintiff" making false allegations in its Complaint and Amended Complaint, supporting its Complaint and then its Amended Complaint with an UNENDORSED copy of the Note Ms. Spencer made payable to "FNMC, a division of National City Bank of Indiana," which was later alleged to have been ENDORSED in blank more than three and one half years (3 ½ years) earlier and supporting its first motion for summary judgment with a falsely sworn affidavit, which was concealed from Ms. Spencer by the creation of two (2) different letters dated February 17, 2011 (one sent to the Court referring to an "affidavit issue", falsely cc'd to Ms. Spencer, and the other sent to Ms. Spencer and not to the Court which does not refer to an affidavit issue).

(2) By refusing to plead its capacity as servicing agent the "plaintiff" delayed the case by 203 days after the appearance of new counsel for Ms. Spencer. The "plaintiff" brought 2 false motions for summary judgment based on an UNENDORSED copy of the Note, re-opened the

case and vacated the first falsely acquired summary judgment without notice and opportunity to be heard being provided to Ms. Spencer (delaying the case for an additional almost one and one half (1 ½ years), requesting and receiving additional time to file a third motion for summary judgment, thereafter delaying the filing of the third motion for summary judgment after the February 25, 2014 dismissal of Ms. Spencer's Chapter 13 case (WIWB Case No. 13-15076) until September 13, 2014 (197 days).

(3) The appeal from the award of attorneys' fees to the false plaintiff delayed nothing.

COUNT THREE

63. Denies ¶63 of OLR's Amended Complaint and affirmatively alleges:

a. There is not one fact, true or false, alleged by OLR which supports the conclusion that Nora engaged an "ongoing pattern of conduct to harass other parties and judicial officers and delay the proceedings" (in a state court case which OLR does not even correctly identify).

b. The conclusory allegation at ¶43, is a conclusion of law, unsupported by any true facts.

c. OLR fails to allege any true facts to support its claim that Nora harassed "other parties and judicial officers," except in the headings provided by OLR, which are not operational factual allegations and, again, the conclusory allegation at ¶43. The unidentified "parties" which OLR fails to name would, by implication, include the falsely identified entities appearing in Wood County Circuit Court case incorrectly identified by OLR and their affiliates and agents, but would also include their attorneys who are not named by OLR but likely include Attorney William N. Foshag (Foshag) of Gray & Associates, LLP, who filed the false Complaint alleging the false plaintiff is the owner and holder of Ms. Spencer's Note and Mortgage and his Co-Grievant Potteiger, who admits that he represents an entity, Fidelity National Financial which,

through its agents and subsidiaries, operates one of the most prolific document forgery services in the nation.

d. There is no factual basis in the Amended Complaint, true or false, for the conclusion in OLR's ¶63 and Nora affirmatively defends:

(1) Nora has the utmost respect for the Constitution of the United States and the States of Wisconsin and Minnesota where she is admitted to practice, the statutes and rules of courts of the United States and the several states and the Rule of Law. She is not without flaws as a human being but strives diligently to examine her professional conduct and to avoid unnecessary harm to any other human being.

(2) Nora respects judicial officers when they are performing their appointed and elected duties constitutionally.

(3) Nora believes that no one is above the law and that corporations, being creatures of statute, are subject to human governance and must be held accountable when they cause harm to human beings.

(4) There are no facts alleged true or false which support a conclusion that Nora has counseled or maintained any suit or proceeding which appears to her to be unjust nor any allegation that she has pursued an unjust defense for Ms. Spencer, whose current mortgage payment was refused by National City Bank to create the appearance of default, and who had put her entire life's earning into her home in a downpayment of almost \$100,000.00 (more than one third of the market value of her home) and 3 times the amount the false plaintiff is guaranteed to recover as servicing advances from Freddie Mac.

**Regarding the Rinaldi Matter
OLR Matter No. 2015MA614
Counts Four-Five**

64. Denies ¶64 of OLR's Amended Complaint insofar as it alleges that Nora represented the Rinaldis in their state foreclosure actions and admits that Nora represented the Rinaldis Case No. 13-CV-336 into which Case No. 13-CV-643 was consolidated until April 9, 2014 and for most of their appeal to the Seventh Circuit Court of Appeals in Case No. 13-13865 and some of their appeal in Case No. 14-1887, including at oral argument before the Seventh Circuit Court of Appeals.

65. Denies ¶65 of OLR's Amended Complaint and affirmatively alleges:

a. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

b. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

c. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

66. Denies ¶66 of OLR's Amended Complaint.

a. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

b. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

c. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

67. Denies ¶67 of OLR's Amended Complaint, and affirmatively alleges:

a. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

b. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

c. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers

representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008.

68. Denies ¶68 of OLR's Amended Complaint insofar as it implies the truth of the allegations at ¶¶ 64-67, on the further grounds set forth below, and affirmatively alleges:

a. On January 26, 2010 an Order for Judgment was entered on false pleadings, brought in the name of a nonexistent entity, claiming ownership of a Note made payable to Wells Fargo Bank, N.A. (Wells Fargo Bank), attached to the Complaint as a "true" copy, which was not endorsed, and on a Complaint to which an unassigned Mortgage conveying a mortgagee interest to Wells Fargo Bank was also attached.

b. On February 2, 2010, Judgment of Foreclosure was entered against the Rinaldis and in favor of HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a nonexistent entity.

c. The Rinaldis brought a motion to vacate judgment which was pending at the time that the attorneys representing Wells Fargo Bank, pretending to be representing HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a nonexistent entity, petitioned the state court to re-open the judgment and dismiss the false Complaint.

d. The Order for Judgment and the Judgment entered in the state court foreclosure case was re-opened and the state court foreclosure action against the Rinaldis was dismissed on petition of the pretended plaintiff in that action on January 18, 2011.

e. The falsity of this allegation demonstrates that OLR has not reviewed the essential

documents pertaining to the state court foreclosure action to which OLR pretends to refer.

f. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

g. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008.

69. Denies ¶69 of OLR's Amended Complaint and affirmatively alleges:

a. The Rinaldis were not heard on the unilateral petition of the attorneys representing Wells Fargo Bank to re-open the judgment of foreclosure and dismiss the case, based on a Loan Modification Agreement, signed by Roger Rinaldi, which was never returned executed by any other party to the agreement.

b. The only time a copy of the purported Loan Modification Agreement ever appeared was in Rinaldis' bankruptcy case in Eastern District of Wisconsin Case No. 11-35689. The purported Loan Modification Agreement appeared to have been executed by an employee of Wells Fargo Bank.

c. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

d. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

e. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

70. Denies ¶70 of OLR's Amended Complaint, except insofar as it alleges that Nora entered her appearance for the Rinaldis after the action was filed pro se as co-counsel with Attorney Kim A. Lewis of Twin Lakes, Wisconsin, in a second state court action and affirmatively alleges:

a. The Loan Modification Agreement was never "finalized," according to its terms, which required a copy of the Agreement to be returned to Roger Rinaldi by mail.

b. The Rinaldis did not assert counterclaims against the parties named in the second state court action in the foreclosure action, nor could they, because the parties named in the second state court action were not parties to the foreclosure action.

c. The Rinaldis could not have "reasserted their counterclaims" against the same parties in the second action because the parties defendant in the second action were not before the court in the foreclosure action.

d. The Rinaldis, pro se, did not know that they could file a Third-Party Complaint against the parties named in the second state court action and apparently OLR and whoever is advising OLR in these proceedings does not know that counterclaims may only be brought against the plaintiff.

e. ¶70 is evidence of selective and vindictive prosecution of Nora because Attorney Lewis is not mentioned as being co-counsel with Nora for the Rinaldis and was never contacted by OLR with respect to the positions taken by Attorneys Lewis and Nora in the second state court action.

f. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the either state court foreclosure action or the second state court action which the Rinaldis commenced pro se, to which OLR pretends to refer.

g . The falsity of this allegation is in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

h. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

71. Denies ¶71 of OLR's Amended Complaint insofar as it implies that the defendants in the second state court action initially moved to dismiss with prejudice and affirmatively allege:

- a. The defendants initially moved for dismissal of the action for lack of personal jurisdiction, based on insufficient service of process.
- b. On the Rinaldis' behalf, Attorneys Nora and Lewis agreed to dismissal of the action for insufficient service of process, which is not an adjudication on the merits.
- c. After the Rinaldis agreed to dismissal for insufficient service of process, the defendants moved to dismiss the action with prejudice.
- d. The action was eventually dismissed *without prejudice* on January 29, 2015, just as Attorneys Nora and Lewis had offered to do in September, 2011.
- e. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the either state court foreclosure action or the second state court action which the Rinaldis commenced pro se, to which OLR pretends to refer.
- f. The falsity of this allegation is in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).
- g. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

72. Denies ¶72 of OLR's Amended Complaint insofar as it implies that it is unethical for anyone to file a bankruptcy proceeding "before a state court could rule" on any matter and

affirmatively alleges:

a. ¶72 is evidence of OLR's selective and vindictive prosecution of Nora because it does not identify the attorney who filed the Rinaldis' bankruptcy case "before the state court could rule" and if such an allegation constitutes unethical conduct (it does not) the attorney who filed the Rinaldis' bankruptcy case on October 14, 2011 as Case No. 11-35689 would have to be identified.

b. Nora was substituted as counsel for the Rinaldis' case in WIEB Case No. 11-35689 on November 18, 2011 in order to respond to the Motion for Relief from the Automatic Stay filed on November 4, 2011 in which a second version of a copy of the Note suddenly appeared to have been endorsed and was not the "true" copy of the Note attached to the Complaint in the state court foreclosure case (which had been dismissed) and an unrecorded AOM which was not attached to the state court foreclosure and pre-dated the first recorded AOM were produced as Exhibits.

c. The second state court action was dismissed without prejudice for insufficient service of process on January 29, 2015, just as Attorneys Lewis and Nora proposed to do in September, 2011.

d. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the either state court foreclosure action, the second state court action which the Rinaldis commenced pro se, or WIEB Case No. 11-35689 to which OLR pretends to refer.

e. The falsity of this allegation is in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in

violation of Wis. Stats. sec. 802.05(1)(b).

f. The only explanation for OLR's persistent pursuit of the Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12, by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

73. Denies ¶73 of OLR's Amended Complaint and affirmatively alleges:

a. "HSBC" did not file a Proof of Claim in the Rinaldis' bankruptcy case, WIEB Case No. 11-35689.

b. Wells Fargo Bank filed Proof of Claim #6 in Case No. 11-35689 on behalf of an entity identified as HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2, an entity which does not exist as a matter of law because a series of Certificates of Interest in a Real Estate Mortgage Conduit (REMIC) Trust has no de jure existence; if HSBC Bank USA, N.A. is a Trustee, it must be the Trustee of a Trust and not of a Certificate Series.

c. HSBC is not the holder of the June 10, 2005 Note made payable to Wells Fargo Bank.

d. An endorsement suddenly appeared on the Note for the first time in the Rinaldis bankruptcy WIEB Case No. 11-35689 on November 4, 2011 at Doc. 7, which appears to be an integrated stamp displaying the signature of Joan M. Mills, in the purported capacity of Vice President, Wells Fargo Bank, N.A.

e. Joan M. Mills was never a Vice President of Wells Fargo Bank.

74. Denies, in part, and admits, in part, ¶74 of OLR's Amended Complaint and affirmatively alleges:

a. Denies that Nora, on behalf of the Rinaldis, filed adversary claims against the parties that the Rinaldis had "counter-claimed against in the state action."

b. Admits ¶74 to the extent that Nora objected to the Proof of Claim brought by Wells Fargo Bank in the name of HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2, an entity which does not exist.

c. Nora was ordered to file the Adversary Complaint by the bankruptcy court judge in Case No. 11-35689.

d. At the time Nora filed the adversary proceeding, under order of the bankruptcy court, Nora was informed and believed that the name of the entity against whom the Rinaldis were entitled to proceed on their claims was the Wells Fargo Home Equity Trust 2005-2 because a Trust with the stock ticker identification of WFHET 2005-2 had been identified.

e. Nora later learned there were two similarly named entities ("Trusts") reported as existing to the Securities and Exchange Commission (SEC): the Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust (WFHET 2005-2) and the Wells Fargo Mortgage Backed Securities 2005-2 Trust and that the entity named as a defendant, Wells Fargo Home Equity Trust 2005-2, does not exist.

f. Counsel for Wells Fargo Bank, Attorney Stephanie Dykeman, appeared on behalf of the Wells Fargo Home Equity Trust 2005-2 (WFHET 2005-2), a nonexistent entity, in the adversary proceeding filed as Adv. No. 12-ap-2412 and she also appeared in an adversary

proceeding filed by the Rinaldis in their second bankruptcy case (Case No. 15-22937) on April 29, 2015 as Adversary No. 15-02186, claiming to represent HSBC Bank USA, N.A. as Trustee for the Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust (WFHET 2005-2), a “similarly named entity,” which does, in fact, exist.

g. A plaintiff might not know the exact, correct name of a defendant at the time an action is filed, despite diligent efforts to identify a party liable for the claim, but attorneys making appearances for parties must know the identities of the parties for whom they appear.

h. At no time during Adv. No. 12-ap-2412 did counsel for Wells Fargo Bank seek dismissal of the adversary proceeding on the basis that the entity being sued by the Rinaldis did not exist.

i. In her Decision of February 22, 2013 at page 16, Judge Susan V. Kelley held that “any similarly named entity (‘the Trust’)” had standing to proceed against the Rinaldis because “defects in the transfer of the Note to the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust (or any similarly named entity) (the ‘Trust’) do not render the Mortgage unenforceable, the Note invalid or the proof of claim fraudulent.”

j. There is no Trust in existence named the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust.

k. The Note and Mortgage had never been transferred or conveyed into any Real Estate Mortgage Investment Conduit (REMIC) Trust, prior to the closing date of either of the trusts reported to the SEC as having an existence: Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust (stock ticker WFHET 2005-2), which names HSBC Bank USA, N.A. as Trustee, and the Wells Fargo Mortgage Backed Securities 2005-2 Trust, which names Wachovia Bank,

N.A. (which subsequently merged into Wells Fargo Bank) as Trustee, for which the stock ticker number, if any, is unknown at the present time.

l. Grievant in Nora #1, Attorney William N. Foshag, filed the Complaint entitled *HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2 v. Rinaldi, et al.*, Kenosha County Circuit Court Case No. 2009CV000353 on behalf of an entity which does not exist, to wit a Certificate Series issued by a nonexistent Trust which would presumably be named the Wells Fargo Asset Securities Corporation Home Equity 2005-2 Trust, if it existed, but no record of such a trust has been located in more than 7 years.

m. Grievant in Nora #1, Attorney William N. Foshag, alleged at ¶1 of the foreclosure Complaint entitled *HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2*, an entity which does not exist, is the current owner and holder of the Note and Mortgage at issue, writing:

1. The plaintiff is the current owner and holder of a certain note and recorded mortgage on real estate located in this county, true copies of which are attached hereto as Exhibits A and B and incorporated by reference.

Exhibit A attached to the Complaint as a “true” copy is UNENDORSED Note payable to Wells Fargo Bank and Exhibit B attached to the Complaint is a copy of a Mortgage granted to Wells Fargo Bank, for which no Assignment of Mortgage (AOM) was attached to the Complaint or recorded with the Kenosha County Register of Deeds.

n. The Complaint against the Rinaldis is materially false in that it alleges that a nonexistent entity is the owner of the Note and that the copy of the UNENDORSED Note was a “true” copy, which means that the nonexistent plaintiff, in addition to its nonexistence, could not

be the “owner” of an UNENDORSED Note made payable to Wells Fargo Bank or the “owner” of an UNASSIGNED Mortgage, granted to Wells Fargo Bank.

75. Denies ¶75 of OLR’s Amended Complaint and affirmatively alleges:

a. Judge Kelley did not find in favor of “HSBC’s proof of claim.”

b. Judge Kelley’s Decision of February 22, 2013 allowed Proof of Claim #6, filed by Attorney Brian D. Perhach of Gray & Associates, LLP on behalf of the nonexistent entity identified by Attorney Perhach as HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2, which is not the same nonexistent entity as the nonexistent entity in whose name the state court foreclosure action had been commenced.

c. Judge Kelley apparently felt compelled to rename the entity in whose name Proof of Claim #6 would be allowed to be [HSBC as Trustee for] the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust or “any similarly named entity (the ‘Trust’)” because she saw the defect in the identification of HSBC Bank as Trustee for a series of Certificates of Interest. See Judge Kelley’s Decision of February 22, 2013, page 16.

d. Judge Kelley did not recommend “denial” of “*Nora’s* adversarial claims” because Nora was not a party to the adversary proceeding; Judge Kelley recommended **dismissal** of the Rinaldis’ Adversary Complaint for the reasons stated in her February 22, 2013 Decision and Order.

e. Judge Kelley decided that the Rinaldis lacked standing to challenge the suddenly appearing endorsement in blank in the integrated signature stamp of Joan M. Mills, Vice President of Wells Fargo Bank, N.A., which had not been attached to the Complaint in the state

court foreclosure action, based on Wis. Stats. sec. 403.308(1).

f. Judge Kelley erroneously held that Wis. Stats. sec. 403.308(1) created an irrebuttable presumption that the endorsement was valid in order to deny the Rinaldis standing to object to the false Proof of Claim #6 on their allegation that the endorsement was a forgery,⁸ which they were prepared to prove at the evidentiary hearing to which they were entitled under the Fifth Amendment to the *Constitution of the United States*.

g. The issue of the Rinaldis' "lack of standing" was raised sua sponte by Judge Kelley and was never raised by the Adversary Defendants or briefed by any party. There is nothing in Wis. Stats. sec. 403.308(1) that creates an *irrebuttable* presumption of the validity of an endorsement. Wis. Stats. sec. 403.308(1) simply shifts the burden of proof on a challenge to the validity of the endorsement to the maker of the Note, a burden which the Rinaldis were prepared to meet at the evidentiary hearing to which they were entitled under the Fifth Amendment to the *Constitution of the United States* before a claim to their Homestead could be made on the basis of a forged document.

h. Judge Kelley also recommended dismissal of the Rinaldis' Adversary Complaint for fraud and racketeering, despite the production of 3 contradictory Assignments of Mortgage, transmitted by mail and wire, contrary to 18 U.S.C. secs. 1341 and 1343. As to each Assignment of Mortgage (AOM):

(1) The first AOM by date is unrecorded and purports that Wells Fargo Bank assigned the Mortgage to **HSBC Bank USA, National Association as Trustee** on September 14, 2005, and

⁸ At the pleadings stage of the civil action, all of the factual allegations made by the Rinaldis are legally required to be taken to as true. *Scott v. O'Grady*, 975 F.2d 366, 368 (7th Cir.1992), cert. denied, 113 S.Ct. 2421 (1993).

appeared for the first time on November 4, 2011 as an attachment to the Motion for Relief from the Automatic Stay, filed as Doc. 7 in WIEB 11-35689;

(2) The second AOM in time was created by Duncan C. Delhey of Gray & Associates, LLP after summary judgment was granted in the state court foreclosure action purporting to assign the Mortgage from Wells Fargo Bank to **HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2**, the nonexistent entity in whose name foreclosure was granted on false pleadings filed by William N. Foshag, was dated March 1, 2010 was recorded with the Kenosha County Register of Deeds on April 5, 2010; and

(3) The last AOM in time was filed after the Rinaldis filed bankruptcy in WIEB Case No. 11-35689 and their assets were protected against lien perfection by creditors seeking to improve their position to become secured claimants, the Rinaldis' Mortgage was purportedly assigned by Wells Fargo Bank on October 31, 2011 to

HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2

For ease of visualization the three (3) Assignments of Mortgage by which Wells Fargo Bank purported to assign its mortgagee interest to three (3) different entities are

HSBC Bank USA, National Association as Trustee on September 14, 2005;

HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2;

HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2

i. Less than one month after Judge Kelley allowed Claim #6 in the Rinaldis' bankruptcy

(WIEB Case No. 11-35689) and denied them an evidentiary hearing to challenge Proof of Claim #6, the same Judge Kelley disallowed a Proof of Claim in *In re Thompson*, WIEB Case No. 05-28262-svk on March 19, 2013⁹ (the Thompson case).

j. The current mortgage servicer in the Thompsons' case, Ocwen Loan Servicing, LLC, appealed from Judge Kelley's Order of March 19, 2013 disallowing the Proof of Claim and the appeal was heard by none other than United States District Court Judge Joseph P. Stadtmueller, who upheld Judge Kelley's March 19, 2013 Decision in the Thompson case on January 7, 2014,¹⁰ less than one month after he denied the Rinaldis' Rule 59(e) Motion for Amended Findings on December 13, 2013 and threatened the Rinaldis' attorney (Nora) with sanctions for "any further frivolous submissions." See ¶78, below.

76. Admits, in part and denies, in part, ¶76 of OLR's Amended Complaint and affirmatively alleges:

a. There is nothing unethical about appealing from an adverse, erroneous Decision or seeking a review of recommendations.

⁹ The Thompsons, who proceeded to evidentiary hearing (which the Rinaldis were denied) challenged an allonge which, if the Rinaldis could not challenge an endorsement, neither could the Thompsons because an allonge is added to display an endorsement. The Thompsons were allowed an evidentiary hearing, even though they had lost their foreclosure case in state court in 2002 and did not appeal. An ex parte order substituting Wells Fargo Bank for Provident Bank as judgment creditor was entered on the same day that the Thompsons filed their bankruptcy petition in 2005. In the Rinaldis' case, the foreclosure judgment against them had been re-opened and the foreclosure case had been dismissed at the time they filed their bankruptcy in Case No. 11-35689, so whereas a post-judgment order was subject to appeal in the Thompsons' case, there was no judgment whatsoever in the Rinaldis' case.

¹⁰ *Ocwen Loan Servicing, LLC v. Thompson*, Opinion of Judge Joseph P. Stadtmueller, in WIED Case No. 13-cv-487-JPS.

b. Nora filed an appeal for the Rinaldis from the Orders arising in core proceedings.¹¹

c. The Rinaldis objected to the recommendations of dismissing the Adversary Complaint.

77. Denies ¶77 of OLR's Amended Complaint as a characterization of the District Court's October 31, 2013 Opinion and affirmatively alleges:

a. The Decision speaks for itself.

b. Nothing in Judge Stadtmueller's October 31, 2013 Opinion in WIED Case No. 13-cv-336 provides a factual or legal basis for finding that Nora violated any provision of the Wisconsin Code of Professional Conduct.

78. Denies, in part, and admits, in part, ¶78 and affirmatively alleges:

a. Nora, on behalf of the Rinaldis, moved to alter or amend the judgment.

b. There is nothing unethical about bringing a Rule 59(e) Motion. See also the affirmative allegations at ¶75-77, above.

c. Nora denies the implication that it is unethical to identify issues previously denied in a Rule 59(e) Motion and request that the judgment be altered or amended to conform to the law.

d. In view of the Decision of Judge Kelley in the Thompson case and the Opinion of Judge Stadtmueller affirming Judge Kelley's Decision on appeal detailed in ¶75.i. and j. and footnotes 9 and 10 above, the Judgment in Rinaldi should have been altered or amended to conform to the law, which Judges Kelley and Stadtmueller followed in the Thompson case, but

¹¹ Bankruptcy judges enter final orders in "core proceedings" defined at 28 U.S.C. sec. 157(b)(2) and make recommendations to the district courts in non-core matters, 28 U.S.C. sec. 157(c)(1). Final orders entered in "core proceedings" are subject to appeal to the district court under 28 U.S.C. sec. 158(a) within 14 days of the date the order is entered, Fed. R. Bankr. P. 8002(a)(1). Recommendations are subject to objection under 28 U.S.C. sec. 157(c) to be filed at the district court within 14 days, Fed. R. Bankr. P. 9033(b).

did not follow in the Rinaldi case.

e. Whereas Judge Stadtmueller found that the Rinaldis were objecting to findings of fact, the Rinaldis were objecting, as a matter of law, to any findings of fact being made upon Rule 12(b)(6) motions to dismiss their Adversary Complaint or allowing Proof of Claim #6 without an evidentiary hearing, as a *matter of law*.

79. Denies ¶79 of OLR's Amended Complaint as a characterization of the District Court's October 31, 2013 Decision and affirmatively alleges that the Decision speaks for itself and affirmatively alleges:

a. Nora incorporates by reference, as if fully set forth herein, the affirmative allegations at ¶75-78 above.

b. Nora believed in good faith that the Rinaldis' claims were meritorious and continues to believe that the Rinaldis claims are meritorious.

80. Admits ¶80 of OLR's Amended Complaint and affirmatively alleges:

a. There is nothing unethical about appealing from an adverse, erroneous determination of a lower court to a higher court.

b. The Rinaldis had a statutory right to appeal from the Opinions and Orders of Judge Stadtmueller to the Seventh Circuit Court of Appeals under 28 U.S.C. sec. 1291.

c. Nora had a statutory right to appeal to the Seventh Circuit Court of Appeals from the April 9, 2014 Orders of Judge Stadtmueller.

81. Admits, in part, and denies, in part, ¶81 of OLR's Amended Complaint, and affirmatively alleges:

a. There is nothing unethical about an attorney dismissing a Chapter 13 bankruptcy

petition at his or her clients' direction.

b. Nora did not state that “‘she’” wished ‘to proceed to state court’ with ‘newly discovered evidence’ that the mortgage was void.” The Rinaldis wished to do so.

c. Roger Rinaldi had discovered evidence that the foreign trust, correctly identified as Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, and not as incorrectly identified by Judge Susan V. Kelley in her February 22, 2013 Order, the Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates Series 2005-2 Trust but “an entity similarly named (the ‘Trust’)” appeared to have sold certificates to 5 or more persons in the State of Wisconsin, which would cause the provision of Wis. Stats. sec. 226.14 to apply and would void the contracts at issue in the Rinaldis case by operation of law.

82. Admits ¶82 of OLR’s Amended Complaint and affirmatively alleges that it is apparent that Judge Kelley was wrong because the Rinaldis’ appeal was not moot and was heard and determined by the Seventh Circuit Court of Appeals.

83. Admits ¶83 of OLR’s Amended Complaint and affirmatively alleges that a conflict of interest between the Rinaldis and Nora arose at a confidential settlement conference at the Seventh Circuit Court of Appeals, requiring Nora to withdraw until the conflict was resolved.

84. Admits ¶84 of OLR’s Amended Complaint and affirmatively alleges that whether or not Nora’s Motion for Leave to Withdraw had yet been granted, Nora was entitled to seek leave to intervene in the proceedings to defend her independent interests for the reasons stated in the Motion for Leave to Intervene.

85. Admits ¶85 of OLR’s Amended Complaint and affirmatively alleges that there is nothing unethical about seeking and obtaining leave to withdraw as counsel when a conflict of

interest arises nor is there anything unethical about withdrawing as counsel when allowed to do so by the court in which the representation was pending.

86. Admits, in part, and denies, in part, ¶86 of OLR's Amended Complaint and affirmatively alleges:

a. The Joint Motion for Rule 60(b) Relief by the Rinaldis and Nora on April 2, 2014 was filed under existing law and supported by substantial evidence, newly discovered.

b. New evidence consisting of the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual, Version 1, Revision 3* (the "*Manual*") had been discovered by public disclosure on March 18, 2014, was verified as to its authenticity and was filed within 14 days from the date of its public disclosure.

c. There is nothing frivolous or otherwise unethical about seeking Rule 60(b) relief on discovery of new evidence within one (1) year after the entry of the order or judgment from which relief is sought and Fed. R. Civ. P. 60(b)(2) specifically allows for the relief sought.

d. The newly discovered evidence of the *Manual*, which was verified as being authentic, is evidence of both the agreement between the defendants in the Rinaldis' Adversary Proceeding and the method of operation by which wire fraud is committed by Wells Fargo Bank and its attorneys in foreclosure cases throughout the nation.

e. There is nothing frivolous or otherwise unethical about seeking Rule 60(b) relief on discovery of **new evidence of fraud which occurred in the case under review** within one (1) year after the entry of the order or judgment from which relief is sought and Fed. R. Civ. P. 60(b)(3) specifically allows for the relief sought.

f. Rule 60(b)(4) provides for relief from orders or judgments in which the Court denied a

party due process of law. A judgment is void if the court that rendered it lacked jurisdiction of the subject matter or of the parties, or if it acted in a manner inconsistent with due process of law. See *Philos Techs., Inc. v. Philos & D, Inc.*, 645 F.3d 851, 854 (7th Cir. 2011) (citing *Planet Corp. v. Sullivan*, 702 F.2d 123, 125 n.2 (7th Cir. 1983); *Price v. Wyeth Holdings Corp.*, 505 F.3d 624, 631 (7th Cir. 2007) (citations omitted); *Marques v. Fed. Reserve Bank of Chicago*, 286 F.3d 1014, 1018 (7th Cir. 2002).

g. There is nothing frivolous or otherwise unethical about seeking Rule 60(b) relief on the basis that an order or judgment is void for violation of a party's due process rights, Fed. R. Civ. P. 60(b)(4) specifically allows for the relief sought, and there is no time frame for seeking relief from a void order or judgment.

87. Admits ¶87 of OLR's Amended Complaint and affirmatively alleges that there is nothing unethical about appealing from an adverse, erroneous determination of a lower court to a higher court.

88. Admits ¶88 of OLR's Amended Complaint and affirmatively alleges that Nora was unable to persuade the Seventh Circuit Court of Appeals that Judge Stadtmueller abused his discretion in his April 9, 2014 Order for Sanctions.

89. Denies, in part, and admits, in part, ¶89 of OLR's Amended Complaint, and affirmatively alleges:

a. An award of sanctions, standing alone, is insufficient to support a charge of *knowingly or recklessly* filing a "frivolous" Rule 60(b) Motion or a "frivolous" Motion for Leave to Intervene in a matter to allow a nonparty to defend an interest which cannot be fully defended by the parties to the proceeding under Fed. R. Civ. P. 24(a)(2) or has a defense based on common

issues of fact or law with the parties already proceeding in the matter under Fed. R. Civ. P. 24(b).
(2).

b. Nora's defense against a pending motion for sanctions under Fed. R. Bankr. 9011 brought by the Adversary Defendants in Adv. No. 12-ap-2412 was believed in good faith to give her standing to seek leave to intervene and, far more importantly, the newly discovered evidence of the agreement and modus operandi of the fraud scheme Nora alleges on behalf of the Rinaldis in the Adversary Complaint was new evidence which she and the Rinaldis were required to bring to the attention of the Court under 18 U.S.C. sec. 4.

c. There is no violation of any ethics rule for filing papers that a court finds to be "confusing," although Nora tried her best not to confuse the courts and believes in good faith that the "confusion" is inherent in the transactions Nora is attempting to expose. There is, however, nothing "confusing" about the information contained in the *Manual* which specifically instructs Wells Fargo Bank's attorneys to electronically order the creation of documents needed to improve the litigation position they are instructed to take. (See *Manual*, pages 17 and 20-22, which are alleged to have been followed by the Adversary Defendants in the Rule 60(b) Motion at pages 6 and 12.) See the Decision of Judge Robert D. Drain in *In re Carssow-Franklin*, NYSB Case No. 10-20010, ironically citing to the WIEB case *Ocwen Loan Servicing, LLC v. Thompson* 2014 U.S. Dist. LEXIS 2109, at *14-15 (E.D. Wisc. Jan. 7, 2014) referenced at ¶¶75 and 78 and at footnotes 9 and 10 to ¶75, above, in which Judges Kelley and Stadtmueller reached the exact opposite result in the Thompson case to that reached in the Rinaldi case, within one month of each respective ruling. The Thompsons were allowed to proceed to an evidentiary hearing and the Rinaldis were denied the opportunity to present evidence in support of their

objection to Proof of Claim #6.

d. There is no violation of any ethics rule for filing papers that are “needlessly argumentative,” although a court may, in the appropriate case and in its inherent authority, sanction an attorney or a party for disruptive behavior, which is an ethics violation under SCR 20:3.5(d) if the conduct was intended to disrupt a tribunal, but which Nora’s argument described in ¶89, below, did not disrupt the tribunal nor was her indication that HSBC Bank USA, N.A. had signed a deferred prosecution agreement for money laundering at the end of 2012 intended to do.

e. Judge Stadtmueller found that Nora should not have argued that HSBC Bank USA, N.A. (“HSBC”) had publicly admitted to a scheme involving money laundering for Mexican drug cartels for which it entered into an agreement to pay a penalty of 1.9 Billion Dollars in her brief on appeal and that such an argument had no place in a brief. Nora was trained to include socially relevant factors in briefs at the University of Wisconsin Law School which she attended between 1972 and 1975. Nora believed in good faith that the conviction of “HSBC” for money laundering was socially relevant to the extent that courts tend to believe that banks can do no wrong. Our very language employs idioms like “You can bank on it” and “Take it to the bank” to express concepts of truthfulness and security. Since 2008, there is ample evidence that such concepts are outdated and are no longer valid. Nevertheless, even a “needlessly argumentative” brief is not a violation of the Wisconsin Code of Professional Conduct. While courts may seek to sanction their officers to maintain order, Nora did not make any “needlessly argumentative” remarks in the April 2, 2014 Motions for which she was sanctioned.

f. OLR’s ¶89 fails to allege facts constituting a violation of the Wisconsin Code of

Professional Conduct.

COUNT FOUR

90. Denies ¶90 of OLR's Amended Complaint in its entirety and affirmatively alleges:

a. ¶90 fails to specify which subsection of SCR 20:3.1(a) Nora is alleged to have violated in the Rinaldi Matter.

b. Nora violated no subsection of SCR 20:3.1(a) in her representation of the Rinaldis or in her self-representation in the Rinaldi matter.

c. By filing the April 2, 2014 Rule 60(b) Motion for Relief and the Motion for Leave to Intervene which the United States District Court for the Eastern District of Wisconsin found to be "frivolous," Nora did not violate any of the three (3) subsections of SCR 20:3.1(a) because there is no allegation in OLR's ¶¶64-89, let alone clear, convincing and satisfactory evidence that Nora:

(1) knowingly advance[d] a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law because Nora's Motions were based on existing law;

(2) knowingly advance[d] a factual position unless there is a basis for doing so that is not frivolous because Nora had substantial evidence to support the Motions;

(3) file[d] a suit, assert[ed] a position, conduct[ed] a defense, delay[ed] a trial or [took] other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another because Nora's Motions were entirely allowed by existing law, supported by substantial evidence and because OLR has pleaded

no facts that the Motions were filed to harass or maliciously injure any party.

- d. OLR has pleaded no facts which support a violation of SCR 20:3.1(a).
- e. OLR's Count Four fails to state a claim upon which relief may be granted.

COUNT FIVE

91. Denies ¶¶91 of OLR's Amended Complaint in its entirety and affirmatively alleges:

a. By filing the April 2, 2014 Rule 60(b) Motion for Relief and the Motion for Leave to Intervene which the United States District Court for the Eastern District of Wisconsin found to be "frivolous," Nora did not violate any of the three (3) subsections of SCR 20:3.1(a) because there is no allegation OLR's ¶¶64-89, let alone clear, convincing and satisfactory evidence that Nora violated SCR 20:3.2, which provides:

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

b. Neither the Joint Motion for Rule 60(b) Relief nor Nora's Motion for Leave to Intervene in the consolidated case before the United States District Court for the Eastern District of Wisconsin as Case No. 13-cv-336, then pending on appeal to the United States Court of Appeals for the Seventh Circuit as Case Nos. 13-3865 and 14-1887 delayed any proceedings, nor were the Motions brought by the Rinaldis or Nora and the Rinaldis, which did *not* delay the proceedings, contemplated to delay the proceedings.

c. There is not a single factual allegation in OLR's ¶¶64-89 which alleges that delay was contemplated or that any delay resulted from the Motions which are the subject of Count Five.

d. OLR filed Count Five in violation of SCR 22.11, SCR 20:3.1(b) and Wis. Stats. sec. 802.05(2)(c) and, having been given ample opportunity to withdraw this Count Five as being unsupported by any facts, can now be shown to have violated Wis. Stats. sec. 802.05(a) because

there is no explanation for the OLR persisting in the pursuit of Count Five except that it is seeking to harass or maliciously injure Nora for her lawful conduct in representing her clients' in their efforts to petition the judiciary for redress of grievances and defending herself against the factually and legally unsupported charges of violations of Fed. R. Bank. P. 9011 and to defend herself against prospective, now actualized false claims that she has violated any provision of the Wisconsin Rules of Professional Conduct in representing the Rinaldis.

AFFIRMATIVE DEFENSES

92. Discovery and investigation may reveal that one or more of the following additional defenses should be available to Nora in this matter, and, therefore, she reserves her right to assert any such yet to be discovered separate and additional defenses.

93. Upon completion of discovery, if the facts warrant, Nora may withdraw any of these affirmative defenses as may be appropriate, and further reserves the right to amend this answer and affirmative defenses and to assert additional defenses and other claims, as this case proceeds.

94. As and for an affirmative defense, alleges that OLR has failed to state any claim upon which relief may be granted.

95. Nora represented Ms. Spencer and the Rinaldis on the basis of existing law or as a good faith to modify or extend existing law and upon sufficient evidence, except where allegations were pleaded upon information and belief.

96. Any order upon which OLR might rely for preclusion of Nora's defenses in these proceedings is void for violation of Nora's constitutional rights.

97. As and for an additional affirmative defense, these proceedings have been commenced and continued in violation of SCR 22.11.

98. As and for an additional affirmative defense, these proceedings are ultra vires and result from an unauthorized “continuing investigation” directed against Nora by Stieren and St. Ores at the direction of Potteiger and Foshag for the purpose of concealing the misconduct in public office of OLR, its employees and agents by failure to investigate the activities of the grievants, attorneys at their law firms, their co-counsel and other attorneys representing mortgage servicing agents in the State of Wisconsin.

99. As and for an additional affirmative defense, alleges that OLR has commenced this action without cause, knowingly or recklessly proceeding without a good faith belief that it can prove any of the Counts One through Five by clear, satisfactory and convincing evidence.

100. As and for an additional affirmative defense, alleges that OLR commenced its inquiries into the Spencer and Rinaldi Matters identified as OLR Matters 2014MA1570, 2014MA002117 and 2015MA614 at the behest of litigation opponents of Nora and her clients, concealing their identities in the course of an ultra vires “continuing investigation” of Nora’s litigation practice.

101. OLR has initiated and continues these proceedings in bad faith for the purpose of curtailing Nora’s litigation practice at the behest of her litigation opponents.

102. OLR has initiated and continues these proceedings in bad faith for the purpose of concealing misconduct in public office by OLR’s employees, who have persistently failed to investigate grievances filed by homeowners alleging violations of their due process rights, the filing of false pleadings, and the use of forged documents and falsely sworn affidavits by mortgage servicers in Wisconsin foreclosure actions.

103. These proceedings violate Nora’s due process rights by seeking to punish Nora for

engaging in lawful conduct, which is a due process violation of the most basic sort.

Bordenkircher v. Hayes, supra.

104. The Complaint and Amended Complaint are void as being brought in violation of Nora's constitutional rights.

105. These proceedings are substantially based on violations by OLR of the Wisconsin Code of Professional Responsibility as specified above.

106. These proceedings are brought in violation of Wis. Stats. sec. 802.05(a), (b) and (c) as specified above.

107. Attorney Sheryl St. Ores (OLR Assistant Litigation Counsel, previous counsel for OLR), Attorney Paul W. Schwarzenbart (current counsel for OLR who has refused to produce exculpatory evidence of Potteiger's crimes in Nora #1), and Attorney Lisa C. Goldman (Referee in Nora #1, who refused to grant relief from Summary Judgment in Nora #1 or even consider the evidence in support of the Motion for Relief based on Potteiger's criminal forgery and false swearing) are criminally complicit in concealing evidence of crimes of false swearing in violation of Wis. Stats. sec. 946.32, forgery in violation of Wis. Stats. sec. 943.38(1)(a) and uttering forged documents in violation of Wis. Stats. sec. 943.38(2) committed by Attorney David M. Potteiger in Nora #1.

108. As and for an additional affirmative defense, Attorney Travis Stieren, Attorney Robert Kasieta and Attorney Edward A. Hannan are criminally complicit in the unauthorized re-disclosure of Nora's confidential medical records taken by Attorney David M. Potteiger from under federal court seal in violation of Wis. Stats. sec. 146.84(2)(a)2. which was not necessary to protect another from harm.

109. As and for an additional affirmative defense, Attorney Travis Stieren, Attorney Robert Kasieta and former PRC chairperson Attorney Edward A. Hannan are criminally complicit in the negligent, unauthorized re-disclosure of Nora's confidential medical records unlawfully taken by Grievant Potteiger from under federal court seal in violation of Wis. Stats. sec. 146.84(2)(c) for the pecuniary benefit of attorneys for mortgage servicing agents, represented by Attorney Hannan and Grievant Potteiger.

110. As and for an additional affirmative defense, the Wisconsin Office of Lawyer Regulation, through Attorney Sheryl St. Ores unlawfully entered into a dual representation arrangement with Grievant David M. Potteiger, from whom she sought legal advice and counsel in the prosecution of Nora in Nora #1.

111. As and for an additional affirmative defense, Attorney Travis Stieren unlawfully disclosed confidential probate court records to the Preliminary Review Committee in Nora #1, which included confidential medical records he obtained under false pretenses from Nora, pretending to be verifying whether or not a guardian ad litem had been appointed for her in a temporary guardianship matter.

112. As and for an additional affirmative defense, OLR's claims are barred, in whole or in part, by the doctrines of unclean hands.

WHEREFORE, Nora moves for dismissal of each and every Count in these proceedings and for her actual attorneys fees at her hourly rate for service to clients with the ability to pay and her actual costs of defending against these proceedings, filed on false facts, misrepresentations of law, upon multiple violations of the Wisconsin Code of Professional Conduct by OLR, its agents and employees, in violation of Wis. Stats. sec. 802.05(2)(a), (b) and (c) for the purpose of

harassing and maliciously injuring the Respondent, to curtail her litigation activities for the benefit of her litigation opponents and their clients.

Dated at Minneapolis, Minnesota this 16th day of May, 2016.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME
FORCE AND EFFECT AS THE ORIGINAL



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DECLARATION OF SERVICE

Wendy Alison Nora declares that on May 16, 2016, she caused three (3) duplicate original copies of the foregoing Answer, Affirmative Defenses, Objection and Reservation of Rights to be hand-delivered to the Clerk of Appellate Courts and caused true and correct copies thereof to be served by email and UPS delivery upon Referee James J. Winiarski and upon Attorney Paul W. Schwarzenbart at their addresses of record in these proceedings.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME
FORCE AND EFFECT AS THE ORIGINAL



Wendy Alison Nora

APPENDIX K

STATE OF WISCONSIN

IN THE SUPREME COURT

**IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST, WENDY ALISON NORA,
ATTORNEY AT LAW**

CASE CODE 30912**OFFICE OF LAWYER REGULATION****CASE NO. 2015AP002442-D****Complainant;****WENDY ALISON NORA****Respondent.**

DECISION ON PENDING MOTIONS AND ORDER

The following motions are pending in this matter:

1. Respondent's Motion for Damages Pursuant to Wis. Stats. Sec. 895.044.
2. Respondent's Motion to Disqualify Attorney Paul W. Schwarzenbart of Stafford Rosenbaum, LLP as Counsel for the Office of Lawyer Regulation for Conflict of Interest, as a Material Witness and as Complicit in Concealment of Crimes Committed by Attorney David M. Potteiger and Employees and Agents of the Office of Lawyer Regulation in Case No. 2013AP000653-D.
3. OLR's Motion to Amend or Correct Pleadings.

MOTION FOR DAMAGES PURSUANT TO WIS. STAT. §895.044

Respondent moves for damages pursuant to Wis. Stat. §895.044.

Respondent has previously filed a jurisdictional objection "for selective and vindictive prosecution" and for "bad faith initiation and continuation of these proceedings." Respondent has also previously filed a motion for sanctions under Wis. Stat. §802.05. All the previous motions were denied.

OLR argues that, given the prior motions were denied, this current motion is really a motion for reconsideration.

The previous motions for sanctions and damages are similar to the current motion for damages pursuant to Wis. Stat. §895.044. However, rather than relying on Wis. Stat. §802.05, respondent now relies on Wis. Stat. §895.044. To the extent respondent's motions and arguments are repetitious, they are controlled by my previous decisions and orders.

Respondent's motion for damages is premature. Respondent supports her motion with various factual allegations which have yet to be proven. I have previously ruled that respondent is not entitled to a "preliminary or probable cause" hearing simply because respondent makes factual allegations which have yet to be proved. For this reason, respondent's motion for damages pursuant to Wis. Stat. §895.044 must be denied at this time.

Respondent may renew the motion after the disciplinary hearing in this matter if she believes she has proven the necessary elements for damages pursuant to Wis. Stat. §895.044. Respondent will have the opportunity to prove such allegations during the course of the disciplinary hearing in this case so long as she presents relevant evidence relating to the allegations of the amended complaint and any appropriate affirmative defenses. However, she will not be permitted to disrupt or delay the hearing in this case based solely on unsupported allegations of improprieties by opposing counsel, OLR and its employees, witnesses or grievants.

**MOTION FOR DISQUALIFICATION OF OLR'S COUNSEL
(PAUL W. SCHWARZENBART, ESQ.)**

Respondent represented the defendants in a foreclosure action filed in Richland County, *M&I Marshall & Ilsley Bank v. Schmitz*, Richland County Case No. 2008-CV-80. The plaintiff in that

case was represented by Attorney Daniel Stolper, an attorney with Stafford Rosenbaum LLP. The case has seen little activity since August, 2010. Paul W. Schwarzenbart, retained counsel in this case, joined the Stafford firm effective March 1, 2015. Attorney Schwarzenbart has stated under oath that he has had no contact or connection with the subject Richland County Case.

OLR argues that attorney disciplinary proceedings are governed by the rules of civil procedure, citing SCR 22.16(1). OLR also cites *Foley-Ciccantelli v. Bishop's Grove Condo. Ass'n, Inc.*, 2011 WI 36, ¶ 71, 333 Wis. 2d 402, 797 N.W.2d 789, for the principal that “as a general rule only a former or current client has standing to move to disqualify an attorney from presenting someone else in a civil action.” The recognized exception to that rule is that “a non-client party has standing to move for disqualification of opposing counsel, when the prior representation is so connected with the current litigation that the prior representation is likely to affect the just and lawful determination of the non-client party’s position.” *Id.*

Other than the fact that respondent represented the defendants in the Richland County foreclosure case and the plaintiff was represented by Attorney Daniel Stolper of Stafford Rosenbaum LLP, before Attorney Schwarzenbart joined that firm on March 1, 2015, respondent presents no argument that would support a claim that the prior representation by Attorney Daniel Stolper is in some manner connected with the current litigation in this case. I find no connection between the Richland County Case and this case which would justify the disqualification of Attorney Paul W. Schwarzenbart from serving as retained counsel for OLR in this case.

Respondent also moves for disqualification on the basis that counsel was allegedly involved in wrongful conduct and crimes in his representation of OLR in Nora #1. These are most serious allegations. As I previously ruled in this case, respondent’s allegations of improprieties by attorneys,

grievants, and witnesses in this case are simply unsupported allegations at this time. Such unsupported allegations do not support disqualification of counsel. Respondent does not provoke, a “probable cause hearing” by simply making such allegations.

Respondent will have an opportunity to prove her allegations during the course of the disciplinary hearing in this case so long as she presents relevant evidence relating to the allegations of the amended complaint and appropriate affirmative defenses. However, she will not be permitted to disrupt or delay the hearing based solely on unsupported charges of criminality or alleged improprieties on the part of opposing counsel, grievants, or witnesses. She will have the burden of proof on these most serious allegations. Her motion for disqualification is denied at this time and she may renew the motion if she proves her allegations during the course of the disciplinary hearing.

MOTION TO AMEND OR CORRECT PLEADINGS

Disciplinary cases are controlled by the rules of civil procedure SCR 22.16(1). Wis. Stat. §802.09(1) provides that after six months from the filing of the complaint, a party may amend the pleadings by leave of court which shall be freely given at any stage of the action when justice so requires.

My review of the file in this matter discloses that respondent was well aware of the erroneous case number alleged in both the original and amended complaint in paragraph 6. Respondent’s answers, briefs and argument have repeatedly suggested that the case number in paragraph 6 of both the complaint and amended complaint was wrong. Respondent’s answers to both of the complaints shows that she was aware of the case number issue.

While it is true that OLR did not correct the problem in its first amended complaint, Respondent was well aware of the error. Rather than agreeing to amendment of the error by way of

stipulation, respondent now claims that she has been prejudiced by the error and she has spent countless hours of unnecessary time because of the error.

OLR did not cause respondent to spend countless hours because of the error. At any time respondent could have simply acknowledged and agreed to fix the error. Instead, she sought to take advantage of the error. It was the respondent who decided to make the most of the error by alleging prejudice because a case number was misstated. Any unnecessary time or prejudice suffered by the respondent was solely because she chose to make the most of OLR's innocent error.

I reject any suggestion that the preliminary review committee would need to meet again and determine probable cause based upon a simple case number error. The preliminary review committee's finding of probable cause had to do with the allegations and merits of the materials presented to them in a case involving the respondent. Their findings had nothing to do with an erroneous case number.

Likewise, OLR wishes to amend paragraph 19 of the current amended complaint from:

“Nora alleges there were three additional unlawful ex parte letter communications between Judge Potter and plaintiff's counsel: March 31, 2010, February 17, 2011, and June 20, 2011 letters.”

OLR wishes to change the language to:

“Nora alleges there were three additional unlawful ex parte communications between Judge Potter and plaintiff's counsel relating to letters and pleadings filed with the court on or about March 31, 2010, February 17, 2011, and June 20, 2011.”

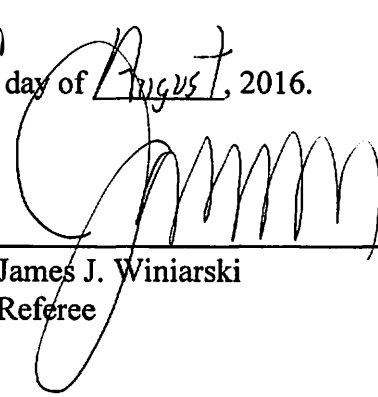
The change from “three additional unlawful ex parte letter communications” to “three additional unlawful ex parte communications” does not impose any hardship on respondent, especially given that there was ample time for discovery in this case.

OLR's motion to amend and correct the pleadings as set forth above is granted.

IT IS ORDERED:

1. Respondent's motion for damages pursuant to Wis. Stat. §895.044 is denied.
2. Respondent's motion for disqualification of OLR's counsel, Attorney Paul W. Schwarzenbart, is denied.
3. OLR's motion to amend or correct pleadings is granted.
4. Respondent is warned that any future motions filed by her may not be repetitive to motions previously filed and ruled upon. Repetitive motions will be summarily denied and opposing party will not be required to file opposing briefs. A motion for reconsideration is appropriate.
5. All future motions filed by either party shall take the form of a simple statement of the motion, accompanied by a separate supporting single brief of no more than ten (10) pages. The motion and supporting argument must be separated into separate documents and a "run-on" presentation of a motion and argument in a single document is not permitted. Non-compliance may result in summarily dismissing any such motion.

Dated at Milwaukee, Wisconsin, this 16th day of August, 2016.



James J. Winiarski
Referee

APPENDIX L

STATE OF WISCONSIN

IN THE SUPREME COURT

In re the Matter of the Disciplinary Proceedings
 Against Wendy Alison Nora,
 Attorney at Law

Case Code: 30912

 Office of Lawyer Regulation,
 Complainant

Case No. 2015AP002442-D

v.

Wendy Alison Nora,
 Respondent

JURISDICTIONAL OBJECTION AND NOTICE OF MOTIONS AND MOTIONS:
 (1) TO DISMISS FOR LACK OF SUBJECT MATTER AND PERSONAL JURISDICTION;
 AND ALTERNATIVE MOTIONS (2) TO REQUIRE THE FILING AND SERVICE OF THE
 SECOND AMENDED COMPLAINT; (3) TO ALLOW FILING OF A RESPONSE TO THE
 SECOND AMENDED COMPLAINT UPON SERVICE; (4) FOR RELIEF FROM
 SCHEDULING ORDER; (5) FOR CONTINUANCE OF PROCEEDINGS TO THE
 ALTERNATIVE HEARING DATE SET FORTH IN THE FEBRUARY 18, 2016
 SCHEDULING ORDER; RESERVING RIGHTS TO AMEND MOTION FOR WRIT OF
 MANDAMUS REQUIRING REFEREE TO PROVIDE RESPONDENT
 WITH RIGHT TO BE HEARD

PLEASE TAKE NOTICE that Wendy Alison Nora (Nora), maintaining her special appearance objecting to the jurisdiction of this Court invoked in bad faith by the Office of Lawyer Regulation (OLR), contrary to the Rules of this Court, and renewing her special appearance, objecting to the jurisdiction of this Court to proceed on an unfiled and unserved Second Amended Complaint to which she has not been given an opportunity to respond, will bring her jurisdictional objection and alternative motions for relief on for hearing before Referee James J. Winiarski at a time and place to be set by the Referee, reserving her rights to amend her August 3, 2016 Petition for a Supervisory Writ now pending before this Court.

NOW COMES Wendy Alison Nora (Nora) maintaining her special appearance objecting to the jurisdiction of this Court invoked in bad faith by the Office of Lawyer Regulation (OLR), contrary to the Rules of this Court and renewing her special appearance, objecting to the subject matter and personal jurisdiction of this Court to proceed on an unfiled and unserved Second Amended Complaint to which Nora has not been given an opportunity to respond, and moves the Court:

1. To dismiss these proceedings:

a. For lack subject matter jurisdiction¹ because this action now purports to proceed on charges not authorized by a preliminary review panel² of the Preliminary Review Committee (PRC), pursuant to SCR 22.11 (2), which provides, in relevant part:

The complaint shall set forth only those facts and misconduct allegations for which the

¹ Although SCR 22.16(1) provides the Referee with the powers of a circuit court judge trying a civil action, the Referee is not a judge with general jurisdiction under Article Seven, Section 8 of the Wisconsin Constitution. SCR 22.16(1) does not confer the general jurisdiction of the circuit courts on Referees, whose authority is limited to hearing cases properly commenced under SCR 22.14(2). There is no dispute that a preliminary review panel has not authorized the filing of the yet-to-be filed Second Amended Complaint and it is undisputed that Nora has not consented to the filing of the amended allegations.

² The Referee manifestly erred as a matter of law when he imputed to Nora the nonexistent duty to agree to the amended allegations proposed by OLR as the yet-to-be filed Second Amended Complaint and manifestly erred as a matter of fact when he disregarded Nora's prolonged efforts to alert OLR to the multiple false allegations in its Complaint and Amended Complaint over the course of almost six (6) months. The Referee found, "At any time respondent could have simply acknowledged and agreed to fix the error." It was not Nora, but OLR, which failed to acknowledge and fix the error until after it was confronted with Nora's discovery. In order to acknowledge and fix the error, OLR is required to obtain approval of the preliminary review panel of the PRC to charge Nora with misconduct in an existing case. Nora's discovery (which the Referee finds to have been adequate) was largely wasted on calling OLR's attention to the fact that "2013TJ49" was not a case in which any litigation activities took place. Nora is being denied discovery into the bases for OLR's charges in the case which OLR's new counsel, on his own initiative and without the authority of the PRC's panel, and now the Referee, who is not authorized to amend charges not authorized by the PRC's panel, has "amended" without the filing of a Second Amended Complaint.

preliminary review panel determined there was cause to proceed and may set forth the discipline or other disposition sought . . .

contrary to SCR 22.11(2);³ and

b. For lack of personal jurisdiction if this action now purports to proceed on a Second Amended Complaint which has not been filed or served, in violation of the Wisconsin Rules of Civil Procedure, and to which Nora has not been allowed an opportunity to respond.⁴

2. In the alternative, Nora seeks the following immediate relief by orders:

a. Requiring the Office of Lawyer Regulation (OLR) to file and serve the Second Amended Complaint upon Nora as required by Wis. Stats. sec. 802.09(1);⁵

³ Nora acknowledges that on August 16, 2016, the Referee decided that the amended charges need not be authorized by the PRC prior to the filing of the Second Amended Complaint allowed by that Order. Nora takes the position that because the allegations (which have yet to be filed in the form of a Second Amended Complaint) were not approved by the PRC, the Court is without subject matter jurisdiction to proceed on the yet-to-be filed Second Amended Complaint. A Motion for Reconsideration is being considered by Nora, but it is not necessary for Nora to litigate the issue of subject matter jurisdiction. Subject matter jurisdiction can neither be waived nor conferred by consent. In *State v. Cvorovic*, 158 Wis.2d 630, 634, 462 N.W.2d 897, 897-898, the Wisconsin Court of Appeal held, "Subject matter jurisdiction cannot be conferred upon the court by consent. *Kelley v. State*, 54 Wis.2d 475, 479, 195 N.W.2d 457, 459 (1972). Nor can it be waived. *Id.*"

⁴ The proceedings are scheduled to be heard commencing on September 7, 2016 at 8:30 a.m. on the January 19, 2016 Amended Complaint. The Second Amended Complaint allowed by the August 16, 2016 Order has not been filed or served. If the Second Amended Complaint were filed and served today, the date of service would be disregarded under Wis. Stats. sec. 801.15(4). Nora would have 20 days to respond under Wis. Stats. sec. 802.09(1) unless the Referee, for cause, ordered an earlier time for her response, and her response, either by motions under Wis. Stats. sec. 802.06(2)(b) or by answer, would be due on the date upon which the evidentiary hearing is set to commence. At the present time, there is no Second Amended Complaint in the record of these proceedings.

⁵ Subject, of course, to Nora's reserved objection to subject matter jurisdiction which can neither be conferred by consent nor waived. *Cvorovic*, supra. Personal jurisdiction has attached only as to the January 19, 2016 Amended Complaint filed on January 19, 2016 and served upon Nora by mail. At the present time, there is no Second Amended Complaint of record in these proceedings and Nora has not had the opportunity to respond to a second amended complaint in this action.

b. Allowing Nora to respond to the Second Amended Complaint when it is filed and served upon her in accordance with Wis. Stats. sec. 802.09(1) once personal jurisdiction is obtained;⁶

c. Modifying the February 18, 2016 Scheduling Order in Order to allow Nora to defend against the yet-to-be filed and served Second Amended Complaint;

d. Continuing the evidentiary hearing now set to commence on September 7, 2016 to the alternative date provided in the February 18, 2016 Scheduling Order of October 31, 2016 through November 4, 2016, at 8:30a.m., and November 7, 2016, through November 9, 2016, at 8:30a.m. in order to allow Nora to defend against the yet-to-be filed and served Second Amended Complaint;

(1) Perform additional discovery now necessary due to the yet-to-be amended allegations in the purported Second Amended Complaint as to all Counts;

(2) Name witnesses now necessary due to the yet-to-be filed amended allegations in Counts One and Two, which effect her defense as to all Counts; and

(3) Seek to obtain counsel to defend her in this action as to all Counts and, failing to do so, will proceed self-represented upon adequate time to prepare her own defense, as requested above.

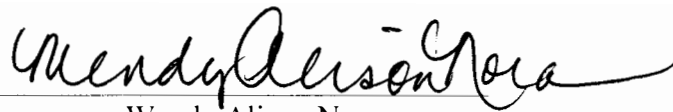
WHEREFORE, Nora requests dismissal of these proceedings for lack of subject matter jurisdiction as a matter of law and for lack of personal jurisdiction to the extent that this action to the extent that this action would now purport to proceed on an unfiled and unserved

⁶ Service of a second amended complaint which must be filed with the Court is required to be served by facsimile or mail under Wis. Stats. sec. 801.14(2).

Second Amended Complaint to which Nora has not been allowed to response in her defense. By the alternative Motions, Nora cannot waive her objection to the subject matter jurisdiction of the Court and does not waive her objection to personal jurisdiction because she is seeking to assist the Court in obtaining jurisdiction over her person, so that this matter may proceed to a full and fair determination on the merits, but for the defect in subject matter jurisdiction, which cannot be waived or conferred by consent.

Dated at Madison, Wisconsin this 17th day of August, 2016.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME
FORCE AND EFFECT AS THE ORIGINAL



Wendy Alison Nora
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FAX (612) 206-3170
accesslegalservices@gmail.com
Wisconsin Attorney ID #1017043

DECLARATION OF SERVICE

Wendy Alison Nora declares that she caused the foregoing Jurisdictional Objections and Alternative Motions to be filed via facsimile with the Clerk of Appellate Courts, to be served via facsimile upon Attorney Paul W. Schwarzenbart and by mail upon Referee James J. Winiarski and provided courtesy copies by email to Attorney Schwarzenbart and Referee James J. Winiarski, in accordance with the February 18, 2016 Scheduling Order in these proceedings.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME
FORCE AND EFFECT AS THE ORIGINAL



Wendy Alison Nora

APPENDIX M

STATE OF WISCONSIN

IN THE SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST WENDY ALISON
NORA, ATTORNEY AT LAW.

CASE CODE 30912

OFFICE OF LAWYER REGULATION,
Complainant;

CASE NO. 2015AP2442-D

WENDY ALISON NORA,
Respondent.

SECOND AMENDED COMPLAINT

NOW COMES the Wisconsin Supreme Court - Office of Lawyer Regulation (OLR), by its retained counsel, and for its second amended complaint, alleges as follows:

1. OLR was established by the Wisconsin Supreme Court and operates pursuant to Supreme Court rules. This *Second Amended Complaint* is filed pursuant to SCR 22.11 and the order issued by the Referee and dated August 18, 2016.

2. Respondent, Attorney Wendy Alison Nora (Nora), is a Wisconsin attorney (State Bar No. 1017043) admitted to practice law in 1975 whose office address is currently listed with the State Bar of Wisconsin as Access Legal Services, 310 Fourth Ave. S., Suite 5010, Minneapolis, MN 55415.

3. Nora's Wisconsin disciplinary history consists of a 30 day suspension as discipline reciprocal to that imposed by the Minnesota Supreme Court for misrepresentations, failing to adequately investigate, bringing a frivolous claim against a bank, inappropriate transfer of assets, and bringing litigation as a delay tactic while asserting a theory that was not justified by existing law. *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W.2d 99 (1993).

**Regarding the Spencer Matter
OLR Matter No. 2014MA1570
Counts One - Three**

4. In July 29, 2005, a mortgage note was issued in the amount of \$209,160 to Sheila Spencer (Spencer).

5. In 2008, Spencer failed to pay her mortgage.

• ***Circuit Court: Judge Potter, Counsel, Staff***

6. On April 7, 2009, a foreclosure action was initiated against Spencer arising out of the note and mortgage ("Spencer foreclosure"). The action was captioned FNMC, a division of National City Bank of Indiana nka National City Bank, vs. Sheila M. Spencer, et al., Wood County Case No. 2009CV283, the Honorable Gregory J. Potter (Judge Potter) presiding.

7. In May 2012, Nora became successor counsel for Spencer.

8. Nora alleged the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme.

9. Nora argued the correct plaintiff holding the note was an issue before the court.

10. The court determined PNC Bank, N.A., was the correct party plaintiff.

11. Throughout the litigation, Nora accused opposing counsel of fraudulently concealing the identity of the real party interest and engaging in "actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct."

12. On May 23, 2012, the court held a scheduling conference, said hearing originally scheduled for summary judgment.

13. During the May 23, 2012 scheduling conference, the court stated Nora would need to provide a list of issues for summary judgment.

14. On May 25, 2012, plaintiff's counsel in the foreclosure action sent Judge Potter a letter and copied

Nora enclosing a proposed order (proposed order) regarding the timeline for summary judgment issues.

15. Plaintiff's counsel's letter shows a copy of the proposed order was sent to Nora and he provided affidavits of mailing.

16. Judge Potter sent the parties via letter a signed order in which he acknowledged he converted the May 23, 2012 summary judgment hearing to a scheduling conference and provided a timeline for summary judgment issues.

17. Nora claims she never received Judge Potter's letter and final order.

18. Nora asserts there were ex parte communications by which plaintiff's counsel sent Judge Potter a letter with the proposed order and Judge Potter entered the order but did not send it to Nora.

19. Nora alleges there were three additional unlawful ex parte communications between Judge Potter and plaintiff's counsel relating to letters and pleadings filed with the court on or about March 31, 2010, February 17, 2011, and June 20, 2011.

20. An employee for plaintiff's attorney filed an affidavit in which she swore she sent the March 31, 2010 letter to Spencer.

21. The February 17, 2011 and June 20, 2011 letters indicate on their face a copy was sent to Spencer.

22. On June 28, 2012, Nora moved to have Judge Potter disqualified based upon the alleged *ex parte* communications.

23. Nora received the transcript of the May 23, 2012 hearing and discovered the third page was missing from the transcript.

24. Nora claimed there were certain word variances between the words used during the May 23, 2012 hearing and the words appearing in the transcripts, such as the word 'call me' was transcribed as 'contact me.'

25. Nearly all of the text of page three of the transcript consists of Nora giving Judge Potter a procedural and factual history of the case.

26. Page three of the transcript contains no orders, no dates, and no findings that would prejudice Nora or her client.

27. Nora claimed Judge Potter and the court clerk intentionally manipulated the court record.

28. Nora subsequently withdrew her objections related to the transcript page three and acknowledged there must have been a collating or processing error.

29. On July 23, 2012, Nora filed an amended motion demanding Judge Potter be disqualified based upon repeated *ex parte* communications and entering *ex parte* orders.

30. In the July 23, 2012 motion, Nora accused opposing counsel of conniving to procure *ex parte* orders, and, accused the judge, opposing counsel, and court personnel of manipulating the record.

31. The court entered an order denying Nora's July 23, 2012 disqualification motion.

- ***U.S. District Court: Judge Crabb***

32. On January 10, 2013, nearly four years after the Spencer foreclosure action commenced and while a summary judgment motion was pending in circuit court, Nora filed a motion to remove the case to the U.S. District Court for the Western District of Wisconsin, U.S. District Court Judge Barbara A. Crabb (Judge Crabb) presiding.

33. On February 8, 2013, the plaintiff moved to remand the Spencer foreclosure matter to state court.

34. Throughout her brief in response to the remand and other pleadings, Nora accused the plaintiff and its attorneys of engaging in a "sham proceeding" against her client.

35. In a March 25, 2013 order, Judge Crabb stated federal jurisdiction did not attach to the Spencer case and remanded the case to the Wood County Circuit Court.

36. On April 8, 2013, Nora filed a motion for reconsideration of the March 25, 2013 order objecting to attorney's fees.

37. Judge Crabb denied Nora's April 8, 2013 motion for reconsideration as frivolous because the matter had already been remanded, stated the Court lacked jurisdiction to reconsider its remand order, and ordered Spencer to pay attorney's fees.

38. Nora filed a second motion for reconsideration of the March 23, 2013 order, said motion summarily denied.

39. Nora accused Judge Crabb of libel based upon orders Judge Crabb made in previous cases involving Nora.

40. Judge Crabb's previous orders, in part, involved unsealing one of Nora's medical records during a matter in which Nora claimed her medical condition required additional extensions of time and other considerations by the court.

41. Nora alleged Judge Crabb's opening of the medical records was injurious to her reputation.

42. Nora has not alleged the medical records were untrue.

43. Nora's accusations of libel were intended to discredit a judiciary member while performing her duties.

44. In addition, Nora stated her accusations of libel against Judge Crabb related to the Judge making a statement that Nora's arguments were "lacking coherence."

45. Nora stated, "[T]he Respondent indeed stated that Judge Barbara A. Crabb has engaged in a campaign of libel against her."

- **U.S. Court of Appeals for the Seventh Circuit**

46. Nora appealed the U.S. District Court's order for remand and attorney's fees to the U.S. Court of Appeals for the 7th Circuit (7th Circuit).

47. In Nora's appeal to the 7th Circuit, Nora named herself as one of the appellants.

48. Nora was not a party to the U.S. District Court action.

49. The August 13, 2014, 7th Circuit's decision in Case No. 13-276:

- (a) found Nora's appeal on behalf of herself and Spencer frivolous.
- (b) imposed a sanction of \$2,500 against Nora noting, "We suspend this sanction, however, until the time, if ever, that Nora submits further inappropriate filings."

- (c) ordered Nora to show cause as to why she should not be sanctioned for the frivolous appeal.

PNC Bank, N.A. v. Spencer, 763 R.3 650, 655 (7th Cir. 2014).

50. In its August 20, 2014 order for a show cause hearing, the 7th Circuit requested Nora respond to four specific issues and directed her to provide only one response.

51. In response to the August 20, 2014 show cause order, Nora submitted five separate responses as follows:

- (a) an August 27, 2014 petition for rehearing en banc on behalf of herself and Spencer, rehashing her frivolous appellate arguments;
- (b) a "partial response to order to show cause";
- (c) a September 19, 2014 separate motion to stay further proceedings pending a petition for writ of certiorari;
- (d) citation to additional authority; and,
- (e) eleven days before the show cause hearing a motion to postpone the hearing because of a mild injury she had sustained in a car accident.

52. Nora's order to show cause response repeated her accusations against PNC Bank, NA and its attorneys of engaging in felony racketeering and wire fraud, and further, Nora accused opposing counsel of fraudulently concealing the identity of the real party in interest and engaging in

"actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct."

53. On September 16, 2014, the Court of Appeals denied Nora's August 27, 2014 petition for rehearing *en banc*.

54. On September 19, 2014, Nora filed a petition to stay the September 16, 2014 decision pending a writ of certiorari to the U.S. Supreme Court.

55. On October 2, 2014, the 7th Circuit issued a final order directing Nora's client, Spencer, to pay the opposing party \$25,295 in attorney's fees and \$349.67 in costs.

56. The October 2, 2014 7th Circuit order was silent on the issue of whether it would issue any additional sanction against Nora.

57. On October 3, 2014, Nora filed a 28-page decision from the 6th Circuit Court of Appeals, 13-3402, as supporting evidence for Nora's case.

58. On October 28, 2014, a show cause hearing was held.

59. On February 11, 2015, the 7th Circuit issued an order regarding the show cause hearing outlining the factual background as follows:

As discussed in our earlier opinion, this case arose from a Wisconsin foreclosure action in which Nora, retained by Sheila Spencer, raised numerous objections focused on alleging that PNC Bank was fraudulently attempting to foreclose. Nearly four years after the suit had been filed, Nora then

removed the case to federal court on the basis that she had just discovered through internet research that Freddie Mac was the "real party in interest." The district court remanded the case to state court and awarded fees and costs to PNC, concluding that Nora failed to explain how federal jurisdiction could exist when Freddie Mac was not a party to the case. Nora moved for reconsideration, and the court denied the motion as "frivolous," noting that Nora "ignored the voluminous law stating that district courts lack jurisdiction to reconsider remand orders, made no good faith argument for changing existing law and offered no meritorious arguments for reconsidering the decision to award fees." The court added that Nora had attempted "repeated procedural feints to delay the foreclosure that was properly before the state court."

Nora then appealed on behalf of both Spencer and herself, and we concluded that the appeal was sanctionably frivolous. We explained that Nora had "never presented any colorable basis for federal jurisdiction over this years-old state-court foreclosure case," leading us to "suspect that the removal was part of a strategy designed to gum up the progress of the case." *Spencer*, 763 F.3d at 655. We also observed that we lacked jurisdiction over Nora's appeal on her own behalf because liability for the award of fees and costs rested solely with Spencer; although Nora asserted that Judge Crabb had "engaged in a campaign of libel against [her]," this alleged criticism did not permit Nora to appeal. *Id.* at 653-54. Nora suggested at oral argument that she would withdraw her name as co-appellant but never did so. *Id.* at 654.

Further, we noted that Nora's conduct appeared to be part of a pattern of troubling litigation tactics... Additionally, we observed that Nora's responses to her opponents and the courts during this litigation were "unnecessarily accusatory and antagonistic," noting that Nora had accused "the state court judge and court reporter of fraudulently manipulating transcripts, the district

judge of pursuing 'a campaign of libel against [her],' and opposing counsel of engaging in 'actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct.'" *Spencer*, 763 F.3d at 655 (alterations in original). We gave Nora 30 days to show cause why she should not be sanctioned.

Two days after we issued our opinion, Nora filed a 14-page "initial response" alleging that the opinion did not provide her with reasonable notice of the charges against her. She requested an evidentiary hearing and appointment of "an attorney to represent the proponent of the Order to Show Cause and a referee or special master to preside at the hearing." We denied Nora's request for appointment of a special master and a full evidentiary hearing but agreed to hold a hearing on the show-cause order as allowed under Rule 46(c). We warned Nora that we would not accept additional filings beyond "one proper response to the show-cause order" and directed her to address the following four issues in her response: (1) whether the removal of this case, motion to reconsider, and appeal of the fee order were frivolous; (2) whether her appeal on her own behalf was frivolous; (3) whether the removal and appeal were litigated for the improper purposes of delay or increasing litigation costs; and (4) whether her attacks on her opponents and the district judge were appropriate advocacy.

Nora did not limit herself to one proper response. On September 2, 2014, she submitted a petition for rehearing *en banc* on behalf of herself and Spencer, rehashing her frivolous appellate arguments. On September 19, she filed both a "partial response to order to show cause (all rights reserved)" and a separate motion to stay further proceedings pending a petition for writ of certiorari. On October 3, after the court denied her request for a stay of proceedings, she filed a citation of additional authority under Circuit Rule 28(e) to bring to our attention a Sixth Circuit decision that purportedly supports her arguments on the merits. Finally, on October 17, eleven days before the show cause

hearing, Nora moved to postpone the hearing because she had become "progressively mildly cognitively impaired as the result of a whiplash injury" from a car accident on September 13. We denied the request to postpone the hearing but granted Nora, or an attorney on her behalf, leave to argue by speakerphone. On October 28, Nora appeared in person for a 20-minute hearing.

In re Nora, 778 F.3d 662 (7th Cir. 2015).

60. In its February 11, 2015 order, the 7th Circuit discussed whether sanctions would be appropriate:

Sanctions are warranted under Rule 38 when a litigant or attorney presents appellate arguments with no reasonable expectation of success for the purposes of delay, harassment, or sheer obstinacy. See *Wachovia Sec., LLC v. Loop Corp.*, 726 F.3d 899, 909-10 (7th Cir. 2013); *Hartz v. Friedman*, 919 F.2d 469, 475 (7th Cir. 1990); *Mays v. Chi. Sun-Times*, 865 F.2d 134, 138-39 (7th Cir. 1989). Nora's responses provide us with no persuasive reason to doubt that her arguments in this appeal were motivated by improper purposes....

Nora also fails to alleviate our concern about her engaging in "conduct unbecoming a member of the court's bar" under Rule 46(c). She contends that her comments during this litigation have amounted to nothing more than unsanctionable rudeness, citing *In re Snyder*, 472 U.S. 634 (1985). In *Snyder*, the Supreme Court concluded that a single ill-mannered letter did not rise to the level of "conduct inimical to the administration of justice" that is sanctionable under Rule 46(c). *Id.* at 645-47; see *In re Lightfoot*, 217 F.3d 914, 916-17 (7th Cir. 2000) (discussing this standard and collecting cases applying it). But Nora's conduct is more egregious than that in *Snyder*. As noted in our earlier opinion, Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and

"actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions. See *In re Hendrix*, 986 F.2d 195, 201 (7th Cir. 1993) (explaining that attorney's filing of submissions not grounded in law or fact is sanctionable); *Mays*, 865 F.2d at 140 (sanctioning attorney for falsely imputing positions on opponents and the court).

Nora suggested at her hearing that her problems represent a personal dispute with Judge Crabb, pointing out that the judge decided to unseal Nora's medical records in an appeal Nora filed in her own bankruptcy case. But Nora has failed to persuade us that the judge's actions amounted to anything more than adverse rulings against her. Cf. *Liteky v. United States*, 510 U.S. 540, 555 (1994) ("[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.")... When we questioned Nora about the lack of basis for her libel accusations at the hearing in this case, she proposed that she could substantiate her accusations if allowed to discuss them with us in chambers. There is no reason to believe that allowing Nora to disparage Judge Crabb in private would convince us that sanctions are inappropriate.

Id. Nora

COUNT ONE

61. By removing a state court foreclosure matter to the federal court after four years of litigation when there was no colorable basis for federal jurisdiction, and, by filing a frivolous motion to reconsider the order remanding

the matter back to the state court, **Nora violated SCR 20:3.1(a).**¹

COUNT TWO

62. By filing a frivolous appeal on behalf of her client and herself when she was not a party to the litigation, and, by engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, **Nora violated SCR 20:3.2.**²

COUNT THREE

63. By engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, **Nora violated SCR 40.15 enforceable via SCR 20:8.4(g).**³

Regarding the Rinaldi Matter OLR Matter No. 2015MA614 Counts Four - Five

¹ **SCR 20:3.1(a) provides:** “In representing a client, a lawyer shall not: (1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law; (2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or (3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.”

² **SCR 20:3.2 provides:** “A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.”

³ **SCR 40.15 provides in relevant part:** “I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land; ... I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged...”

SCR 20:8.4(g) provides: “It is professional misconduct for a lawyer to violate the attorney’s oath.”

64. At all times herein, unless excepted, Nora represented the plaintiffs in their state foreclosure actions and all appeals. *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.* U.S. Dist. Court, Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS (District Court), and, 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887 (Court of Appeals).

65. In 2005, Roger Rinaldi (Rinaldi) and his wife Desa (the Rinaldis) signed a note promising to repay a Wells Fargo mortgage loan.

66. Within four years, the Rinaldis defaulted on the loan and HSBC Bank USA, N.A. (HSBC) initiated a Wisconsin foreclosure action as assignee of the mortgage note. *HSBC Bank USA vs. Roger Rinaldi, et al.*, Kenosha County Case No. 09-CV-353.

67. The Rinaldis counter-claimed against HSBC, Wells Fargo, and the lawyers involved in the foreclosure alleging that the mortgage paperwork produced by HSBC had been fraudulently altered and that HSBC lacked standing to enforce the mortgage.

68. The state court granted summary judgment against the Rinaldis, who did not appeal.

69. A year later the state court vacated its foreclosure judgment based upon HSBC agreeing to modify the loan rather than foreclose.

70. After the parties finalized the loan modification agreement, the Rinaldis filed a new state lawsuit (second state court matter), reasserting their counterclaims against the same parties. *Roger Rinaldi, et al. vs. Wells Fargo Bank National Association, et al.*, Kenosha County Case No. 11-CV-1477. Nora entered her appearance on behalf of the Rinaldis in that matter on August 30, 2011.

71. The defendants moved to dismiss with prejudice the second state court matter.

72. Before the state court could rule on the dismissal motion in the second state court matter, the Rinaldis filed a bankruptcy action (bankruptcy matter) precipitating an automatic stay. *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A. , et al.*, U.S. Bankruptcy Court, Eastern District of Wisconsin, Case No. 11-35689-svk. Nora began representing the Rinaldis in the bankruptcy matter on November 18, 2011.

73. HSBC, holder of the Rinaldi mortgage note, filed a proof of claim in the bankruptcy matter.

74. In June 2012, Nora objected to HSBC's bankruptcy proof of claim, filed adversary claims against the parties that the Rinaldis had counter-claimed against in the state action, and alleged fraud, abuse of process, tortious interference, breach of contract, and violations of RICO and the Fair Debt Collection Practices Act.

75. On February 22, 2013, the bankruptcy court found in favor of HSBC's proof of claim and recommended denial of Nora's adversarial claims.

76. Nora appealed the February 22, 2013 bankruptcy court order.

77. On October 31, 2013, the District Court affirmed the bankruptcy court's orders on the proof of claim, adopted the bankruptcy court's recommendations on the adversary claims, and found as follows:

- (a) The court concluded that it did not even need to reach the merits of the proof-of-claim decision because the Rinaldis failed to designate the record or issues for appeal as required by the Federal Rules of Bankruptcy Procedure.
- (b) The court rejected the Rinaldis' appeal on the merits, explaining that HSBC had produced documents showing that it was entitled to enforce the mortgage.
- (c) The court dismissed each of the Rinaldis' adversary claims as meritless, noting that their submission of those claims was "an

unfocused, stream-of-consciousness-style recitation of general grievances debtors have asserted in various forms since the origination of the litigation in state court."

- (d) The court warned the Rinaldis they would likely face sanctions if they filed additional frivolous filings because their litigation tactics had "quite obviously been vexatious and time-and resource-consuming" and their filings were "nigh-unintelligible."

78. Within two weeks of the October 2013 District Court's decision, Nora moved to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) and repeated her previously denied arguments related to the mortgage.

79. On December 13, 2013, the District Court decided Nora's Federal Rule of Civil Procedure 59(e) motion and stated as follows:

- (a) the arguments were meritless and "the Rinaldis, through their attorney Wendy Nora, have at every turn filed briefs that have done little to clarify the matters under consideration while further confusing matters" (emphasis in original).
- (b) Nora's briefs were rambling, failed to comply with court rules, contained many spelling and grammatical errors, cited legal authority sparingly if at all, repeated rejected arguments, and used "irrelevant and argumentative language that has no place in a legal brief."
- (c) The court warned that "any further frivolous submissions will result in an award of

appropriate sanctions against the Rinaldis' attorney" (emphasis in original).

80. In December 2013, Nora appealed the District Court ruling to the Court of Appeals.

81. In March 2014, Nora moved to dismiss the Rinaldis' 2011 bankruptcy action asserting she wished "to proceed to state court" with "newly discovered evidence" that the mortgage was void.

82. The bankruptcy court granted Nora's motion to dismiss, informing her that the dismissal might moot the Rinaldis' pending appeal.

83. Nora moved to withdraw as the Rinaldis' attorney in the District Court case.

84. Before the District Court ruled on Nora's motion to withdraw, Nora moved to intervene in the District Court case and demanded relief pursuant to Federal Rule of Civil Procedure 60(b).

85. On April 9, 2014, the District Court allowed Nora to withdraw.

86. On April 9, 2014, the District Court found Nora's motions to intervene and for relief from the District Court's prior orders pursuant to Rule 60(b)(2) of the Federal Rules of Civil Procedure to be frivolous and sanctioned Nora \$1,000, stating:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that '[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis'. (emphasis in original)

87. On behalf of the Rinaldis and herself, Nora appealed the District Court's order related to the Federal Rule of Civil Procedure 60(b) motion and the \$1,000 sanction for frivolous motion filing.

88. On February 11, 2015, the Court of Appeals affirmed the District Court's sanction order.

89. In ruling on Nora's appeal of her District Courts Federal Rule of Civil Procedure 60(b) motion and the subsequent \$1,000 sanction order, the Court of Appeals discussed whether sanctions were appropriate, stating:

Finally, we affirm the sanction order, which we review for an abuse of discretion. See *Tucker v. Williams*, 682 F.3d 654, 661 (7th Cir. 2012). Nora offers only a cursory defense for her actions, maintaining that she did "nothing more than what she [was] required by law to do in the course of representing her clients." But Nora's obligations to her clients did not excuse her disregard of the district court's clear and repeated warnings against continued submission of confusing, frivolous, and needlessly argumentative filings. Thus, the court did not abuse its discretion by sanctioning Nora.

The orders of the district court are affirmed.

Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al., 778 F.3d 672, 672-675 (7th Cir., 2015) at 676.

COUNT FOUR

90. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, **Nora violated SCR 20:3.1(a).**

COUNT FIVE

91. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any

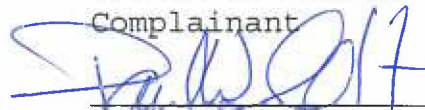
further frivolous submissions would result in an award of sanctions, Nora violated and SCR 20:3.2.

WHEREFORE, the Office of Lawyer Regulation asks that Attorney Wendy Alison Nora be found in violation of the Supreme Court rules as alleged in Counts One through Five of this *Second Amended Complaint*, that the Court suspend Attorney Wendy Alison Nora's Wisconsin law license for a period of one year consecutive to and immediately following any suspension imposed upon Nora related to Supreme Court Case No. 2013AP653-D, and for such other and further relief as may be just and equitable, including an award of costs.

Dated this 18th day of August 2016.

OFFICE OF LAWYER REGULATION

Complainant



Paul W. Schwarzenbart
State Bar No. 1002789
Retained Counsel

Mailing Address:
222 W. Washington, Ste. 900
P.O. Box 1784
Madison, WI 53701-1784
(608) 256-0226

APPENDIX N

STATE OF WISCONSIN

IN THE SUPREME COURT

In re the Matter of the Disciplinary Proceedings
 Against Wendy Alison Nora,
 Attorney at Law

Case Code: 30912

 Office of Lawyer Regulation,
 Complainant

Case No. 2015AP002442-D

v.

Wendy Alison Nora,
 Respondent

JURISDICTIONAL OBJECTION MAINTAINING AND PRESERVING MOTION TO
 DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION OR COMPETENCY OF THE
 TRIBUNAL; CONDITIONAL ANSWER AND AFFIRMATIVE DEFENSES;
 ALLEGATIONS IN SUPPORT OF ACTION FOR DAMAGES UNDER
 WIS. STATS. SEC. 895.044 AND RESERVATION OF RIGHTS

NOW COMES Wendy Alison Nora (Nora), appearing specially, through her Attorney by Limited Appearance, John William Verant (Attorney Verant) *pro hac vice*, and by co-counsel, Attorney Wendy Alison Nora (Attorney Nora), objects to the subject matter jurisdiction (or competency) of the tribunal to proceed on the Second Amended Complaint filed and served by the Office of Lawyer Regulation (OLR) on August 18, 2016; maintains Nora's special appearance, maintaining the Motion to Dismiss for lack of subject matter jurisdiction which cannot be waived or obtained by consent; preserving her Action for Damages by Motion pursuant to Wis. Stats. sec. 895.044 to be renewed pursuant to the August 16, 2016 Order; contingent upon a determination by the Supreme Court of Wisconsin that cause to proceed on the facts and misconduct allegations set forth in the Second Amended Complaint are not required to be determined by a preliminary review panel of the Preliminary Review Committee (PRC), and

maintaining that the tribunal is without jurisdiction over the entire Second Amended Complaint which, as a matter of law, replaced the January 19, 2016 Amended Complaint when it was filed and served on August 18, 2016, Nora shows the Court:

**CONDITIONAL ANSWER AND FACTS IN SUPPORT OF ACTION FOR DAMAGES
PURSUANT TO WIS. STATS. SEC. 895.044**

(This entire Answer is conditioned upon a determination on the issue of lack of subject matter jurisdiction over the August 18, 2016 Second Amended Complaint and the facts are pleaded in support the Wis. Stats. sec. 895.044 Action for Damages for which jurisdiction has been retained pursuant to the August 16, 2016 Order)

1. Conditionally responding to ¶1 of OLR’s Second Amended Complaint, Nora DENIES ¶1, and incorporates this ¶1 and all affirmative allegations into each of paragraph of her Answer to the Second Amended Complaint, whether specifically set forth or not, and affirmatively alleges:

a. OLR is not operating pursuant to Supreme Court rules in the initiation and continuation of proceedings against Nora in this matter, but has initiated and continued these proceedings without a good faith cause to believe that it could prove that Nora violated the Rules of Professional Conduct (SCR Chapter 20) by clear, convincing and satisfactory evidence.

b. Whereas Nora previously alleged, upon information and belief, that OLR did not proceed in good faith in its attempt to file the Second Amended Complaint in *OLR v. Nora*, Case No. 2013AP000653-D (Nora #1), which was then filed as an “Amended” Complaint on November 30, 2015 as a new proceeding under the foregoing case caption (Nora #2) and was subsequently amended on January 19, 2016, it is now undisputed that OLR’s August 18, 2016 Second Amended Complaint has been filed without a determination by a preliminary review panel of the PRC of cause to proceed on the facts and misconduct allegations set forth therein.

c. OLR has not pleaded only the facts or misconduct allegations for which cause to proceed was determined by a panel appointed by the PRC as required by SCR 22.11(2) but obtained leave to file the Second Amended Complaint from Referee James J. Winiarski based upon the June 3, 2016 Affidavit of OLR Investigator Travis J. Stieren (Stieren), who made false and misleading statements under oath with respect to the determination of the preliminary review panel of the PRC, including, but not limited to, ¶¶1, 6, 7, and 8:

¶1. I am an attorney licensed to practice law in the state of Wisconsin and am employed as an investigator for the Complainant Office of Lawyer Regulation (“OLR”). **I make this affidavit on the basis of my own personal knowledge.** (Emphasis added.)

¶6. . . Nora was provided with a copy of the report in the form of a Preliminary Staff Investigative Report before the report was submitted to the PRC, **excepting only the five page analytical work product part of the report setting out OLR’s analysis of the evidence. The foreclosure case in which Nora represented Sheila Spencer discussed in the report was Wood County Circuit Court Case No. 2009-CV-283.** . . (Emphasis added.)

¶7. I did not draft the complaint or amended complaint filed in this matter. I do not know why Wood County Case No. 2013-TJ-49 appears in paragraph 6 of both the complaint and the amended complaint. **The reference should have been to Wood County Case No. 2009-CV-283.** There appears to be some relationship between Wood County Case Nos. 2009-CV-283 and 2013-TJ-49 and Seventh Circuit Case No. 13-2676, because the parties are the same and the plaintiff PNC Bank appears by the same counsel, Attorney James Carrig. (Emphasis added.)

¶8. I reviewed the letter from OLR’s counsel in this matter to Nora dated May 26, 2016, regarding a proposed clarification to paragraph 19 of the amended complaint, before the letter was transmitted to Nora. **Based on my knowledge of the facts I obtained during the investigation of, OLR Inquiry No. 2014MA1570, the proposed changes more accurately describe Nora’s allegations made in the state court action regarding alleged ex parte communications.** (Emphasis added.)

d. Stieren knows that the Preliminary Staff Investigative Report made no reference and did not discuss Wood County Circuit Court Case No. 2009-CV-283 (now referred to as the state court action); he knows that he did not review the contents of the court file in the state court

action before submitting the Staff Report to the PRC; he knows that he made no independent investigation of Nora's supposed allegations of "ex parte communications" in the state court action; and he knows that he made no effort to provide an evidentiary analysis of the documentary record in the state court action to the PRC.

e. These proceedings were initiated in violation of SCR 22.11(2) which provides:

(2) The complaint shall set forth only those facts and misconduct allegations for which the preliminary review panel determined there was cause to proceed and may set forth the discipline or other disposition sought. Facts and misconduct allegations arising under SCR 22.20 and SCR 22.22 may be set forth in a complaint without a preliminary review panel finding of cause to proceed. (Emphasis added.)

f. Affirmatively alleges that these proceedings do not arise under SCR 22.20 or SCR 22.22.

g. Nora was not provided with the materials submitted for review of the PRC and to any PRC panel assigned to consider the charges filed in these proceedings; the investigative report was presented in a biased manner, suppressing evidence which would exculpate Nora from the charges of ethics violations; and OLR promoted the charges as an add-on to the pending case of Nora #1, which OLR attempted to accomplish by a Notice of Filing of a Second Amended Complaint in Nora #1 on September 25, 2015.

h. Affirmatively alleges that these proceedings are ultra vires.

i. Affirmatively alleges that these proceedings have been initiated for the purpose of curtailing Nora's litigation activities on behalf of her clients for the benefit of entities operating a scheme to defraud the courts, the public, and owners of real estate in Wisconsin and throughout

the nation,¹ and OLR has been successful in doing so by burdening Nora's office with responses to unfounded charges, based on falsely sworn affidavits purporting to authentic forged documents created by Grievant Attorney David M. Potteiger (Potteiger) in Nora #1, following the criminal re-disclosure of Nora's confidential medical records in violation of Wis. Stats. sec. 146.84(2) without a public safety exception.

j. These proceedings have been commenced on the basis of an ultra vires continuing investigation of Nora's litigation practice generated by an open channel between Nora's litigation opponents, OLR investigator Travis J. Stieren (Stieren), and a wholly improper consulting arrangement between OLR Assistant Litigation Counsel, Sheryl St. Ores and Grievant Potteiger, who was asked to provide legal advice and consultation by St. Ores to assist her in the prosecution of Nora.

k. Nora's litigation practice in the defense of property owners against foreclosures seeks to require that the real party in interest appear as plaintiff in judicial foreclosure actions in the State of Wisconsin and seeks to cause the entity appearing as plaintiff in judicial foreclosure actions to prove by a preponderance of authentic evidence (and not upon forged documents and falsely sworn affidavits) that the entity appearing before the court is entitled to the equitable remedy of foreclosure provided at Chapter 846 of the Wisconsin Statutes.

l. OLR's years-long ultra vires continuing investigation of Nora to aid and abet Nora's litigation opponents in their efforts to confiscate the real property interests of Nora's clients who

¹ Those entities purport to operate in the "financial industry" and have captured regulatory agencies, including, but not limited, to the United States Department of Justice (USDOJ), the Internal Revenue Service (IRS), the Federal Bureau of Investigation (FBI), the Securities and Exchange Commission (SEC), the Office of the Comptroller of Currency (OCC), and the United State Treasury and now appear to have captured the Wisconsin Office of Lawyer Regulation.

resisted the attempts of mortgage servicers to proceed against them on false pleadings, based on false documents and supported by falsely sworn affidavits, culminated in these proceedings against Nora, which were first attempted to be filed in Nora #1, were then initiated as new proceedings as Nora #2, and was based on over four (4) dozen false factual allegations and almost a dozen misrepresentations of law, which OLR belatedly sought to unilaterally “correct” without obtaining a cause determination from a preliminary review panel of the PRC, solely on the June 3, 2016 Stieren Affidavit and the companion Affidavit of OLR’s new counsel, Paul W. Schwarzenbart (Schwarzenbart) dated June 3, 2016.

m. Schwarzenbart makes statements, under oath, which reveal that Schwarzenbart has taken upon himself, with the assistance of Stieren, to supplant the function of a preliminary review panel of the PRC, including, but not limited to, ¶¶9 and 12 of the June 3, 2016 Schwarzenbart Affidavit, in which he states at ¶¶1, 2, 9, and 12:

¶1. I am serving as retained counsel for the Office of Lawyer Regulation (“OLR”) in the above-entitled matter. **I make this affidavit on the basis of my own personal knowledge.** (Emphasis added.)

¶2. On **April 26, 2016**, I filed and served a Notice of Appearance as counsel for the OLR in this matter. (Date emphasized.)

¶9. **The need to clarify paragraph 6 became apparent on May 16, 2016, when Nora filed her answer to the amended complaint. It became more apparent when Nora served her first set of requests for admissions.** (Date and process emphasized.)

¶10. In her answer, Ms. Nora makes an issue of paragraph 6 not correctly identifying the Spencer foreclosure case filed in the Circuit Court for Wood County by case number repeatedly alleging that “There is no foreclosure case entitled PNC Bank, N.A. v. Sheila M. Spencer, Wood County Case No. 2013T149 filed in October, 2008 or at any other time.” **See Nora’s Answer at ¶¶ 8-29.** (Emphasis added to exemplify OLR’s admission to the scope and impact of the admitted “patent” error in the complaint authorized by the PRC.)

¶11. In Nora’s first set of requests for admissions, approximately 25 of the 106 requests specifically reference “Case No. 2013TJ49.” (Emphasis added to exemplify the admitted scope and impact of the admitted “patent” error on Nora’s discovery rights as to one single set of written discovery.)

¶12. In reviewing the 1363 page report submitted by OLR to the Preliminary Review Committee, it makes no mention of a Wood County Case No. Case No. 2013TJ49. In reviewing the report, it appeared to me that paragraph 19 of the amended complaint should be clarified to state that Nora made three allegations of ex parte communications between Judge Potter and plaintiff’s counsel relating to letters and pleadings filed with the court on or about March 31, 2010, February 17, 2011, and June 20, 2011, as **Nora did not allege that there were three ex parte letters. [Emphasis added to exemplify that Schwarzenbart has acted unilaterally without lawful authority pursuant to SCR 22.11(2), knows that ¶19 is unsupported by any evidence and sought, with the assistance of Stieren, to substitute another false allegation as ¶19, without the authority of the PRC.]**

n. The preliminary review panel of the PRC purportedly found “cause to proceed” on both ¶6 and ¶19 and Schwarzenbart admits that the allegation in ¶19 of the November 30, 2015 Complaint and the January 19, 2016 Amended Complaint is false.

o. Schwarzenbart enlisted Stieren in the effort to re-write ¶19, without calling the falsity of ¶19 to the attention of the charging body (which is required to be a preliminary review panel of the PRC) under SCR 22.11(2).

p. As quoted in ¶1.c., above, Stieren’s June 3, 2016 Affidavit states, “Based on my knowledge of the facts I obtained during the investigation of, OLR Inquiry No. 2014MA1570, the proposed changes more accurately describe Nora’s allegations made in the state court action regarding alleged ex parte communications.”

q. It is the preliminary review panel of the PRC, not Stieren (at the direction of Schwarzenbart) which is charged with the responsibility of determining cause to proceed on facts and allegations of misconduct which **shall be set forth only** in the complaint.

r. Schwarzenbart and Stieren sought leave to correct ¶6 and ¶19 to allege what *they think*

the preliminary review panel should have determined as the facts to be alleged in ¶6 and ¶19 but the PRC did not authorize OLR to proceed on the facts now alleged at ¶6 and ¶19 of the Second Amended Complaint.

s. That OLR is now proceeding on the August 18, 2016 Second Amended Complaint because Schwarzenbart *thinks* and Stieren *agrees* that the preliminary review panel should have found cause to proceed on different facts to be set forth in ¶6 and ¶19 is a clear violation SCR 22.11(2) because the complaint **shall set forth only** those facts and misconduct allegations upon which a preliminary review panel of the PRC determined there was cause to proceed.

t. The facts alleged in ¶6, which Schwarzenbart admitted were “patently erroneous” and effects the allegations in ¶8-29 and which Nora contended rendered the allegations in ¶7-31 entirely false (and she know observes that the issue occurred in ¶32 as well).

u. Although the “patent” error was called to OLR’s attention starting with Nora’s first Motion for Sanctions under Wis. Stats. sec. 802.05, served as safe harbor notice on December 3, 2015 and continued throughout extensive motion practice until she was ordered to answer OLR’s false January 19, 2016 Complaint by the Referee on April 26, 2016, who should know by now that Nora was correct in contending that the November 30, 2015 and January 16, 2016 were false insofar as the allegations now admitted by OLR to have been “patently erroneous” but upon which the Referee refused to grant relief to Nora pursuant to Wis. Stats. sec. 802.05, but allowed Nora to renew her damages action under Wis. Stats. sec. 895.044.

v. As to the purported specific amendment to ¶19 (without a PRC determination of cause) OLR now contends, solely by Schwarzenbart and Stieren (who are not authorized to determine facts or misconduct allegations to be set forth in the complaint), that Nora did not

allege that there were ex parte letters March 31, 2010, February 17, 2011, and June 20, 2011.

w. Schwarzenbart and Stieren (and not the preliminary review panel of the PRC) pretend that the allegation in ¶19 should have set forth that Nora alleged that there were three (3) other ex parte communications relating to letters and pleadings filed with the court on or about March 31, 2010, February 17, 2011, and June 20, 2011.

x. The new factual allegation in ¶19 was not based on Stieren's personal knowledge of the Wood County Circuit Court record (which he did not review or analyze prior to presenting the Investigative Report to the PRC) but was knowingly falsely sworn to have been intended to have been alleged by the preliminary review panel by Stieren, acting outside the scope of his employment at the direction of Schwarzenbart, who is likewise acting ultra vires without a determination of cause to proceed on new ¶19 by the preliminary review panel of the PRC.

y. The amendments to ¶6 and ¶19 not only change the facts in those paragraphs, but changes the allegations in ¶¶7-32, the misconduct allegations in ¶¶61-63 and Nora's defense strategy to the entire matter designated as Nora #2 without the approval of the PRC.

z. OLR has been proceeding on "patently erroneous" allegations against Nora since it first attempted to file its Second Amended Complaint in Nora #1 to include the false allegations it subsequently filed as its November 30, 2015 Complaint and January 19, 2016 Amended Complaint in Nora #2.

aa. OLR is now proceeding on a Second Amended Complaint, which, in substantial part, sets forth facts and misconduct allegations for which *cause to proceed was not determined by the PRC*.

bb. The tribunal is without subject matter jurisdiction to proceed on the Second

Amended Complaint, which shall set forth only the facts and misconduct allegations for which the preliminary review panel determined there was cause to proceed.

cc. Referee did not request that the Referee allow it to amend ¶1 and the Referee did not authorize the filing of amendment to ¶1 of the Second Amended Complaint, contributing to the loss of the tribunal's subject matter jurisdiction.

2. Conditionally ADMITS ¶2 of OLR's Second Amended Complaint and affirmatively alleges:

a. Nora reincorporates by reference as if fully set forth herein ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s. t., u., v., w., x., y., z., aa., bb., and cc. .

3. Conditionally ADMITS, in part, and DENIES, in part, ¶3 of OLR's Second Amended Complaint insofar as OLR has characterized the reciprocal discipline entered in *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W. 2d 99 (1993) (hereinafter, the 1993 Decision) and affirmatively alleges:

a. Nora reincorporates by reference as if fully set forth herein ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s. t., u., v., w., x., y., z., aa., bb., and cc.

b. The 1993 Decision is based upon a 1990 Decision by the Supreme Court of Minnesota, which contained substantial mitigating factors, which were not considered by the Wisconsin Supreme Court. The present published version of the 1990 Minnesota Supreme Court Decision entitled *In re Disciplinary Action Against Nora*, 450 N.W.2d 328 (1990) does not include the actual legal proposition asserted by Nora with respect to the tender of debt instruments in exchange for debt instruments, which is the foundation of all financial transactions in the United States of America. Nora never authorized the use of cashier's checks

drawn on the State Bank of Boyd for the purchase of hard goods or services, except in one instance where she personally provided the funds to clear the instrument. Nora never argued the legal theory that cashier's checks drawn on a closed or insolvent bank were valid form of payment. She did make any such argument to test the validity of cashier's checks as final payment, even if drawn on an insolvent and closed bank. Her legal theory was that, at common law, if a debt instrument is the consideration for a promise to pay, re-payment may be made in kind, to wit, by another debt instrument. While that practice is, in fact, the foundation of all commerce in the United States of America, there is an exception in the State of Wisconsin, where, under Wis. Stats. sec. 134.15(2) contracts for which the consideration is a debt instrument not immediately payable in lawful money of the United States or gold or silver coin, as defined at Wis. Stats. sec. 134.15(1) are unauthorized and are null and void. The events for which Nora was reciprocally disciplined occurred in the State of Minnesota and were governed by Minnesota common law.

c. Nora cannot explain why her actual legal position no longer appears in present publications of *In re Disciplinary Action Against Nora*, 450 N.W.2d 328 (1990) but she clearly recalls that the original published version discussed the legal theory of payment in kind, which the Supreme Court of Minnesota then acknowledged was a recognized principal of common law. It was not and is not the law of the State of Wisconsin (see Wis. Stats. sec. 134.15), so it is understandable that the Supreme Court of Wisconsin would have found, in 1993, that her position was not supported by existing law. The events, however, took place in Minnesota, and the Minnesota Supreme Court recognized the principal of payment in kind which inexplicably does not appear in current published versions of the 1990 Minnesota Decision. Nora's copy of

the original 1990 decision was lost in a flood in her storage space in 2001. Nora would never have argued that a cashier's check drawn on a closed or insolvent bank was a valid instrument for discharge of indebtedness, but did argue that the tender of a debt instrument was payment in kind when the consideration loaned was a debt instrument in the State of Minnesota.

d. The 1993 Decision was based on actions taken by Nora during the Farm Crisis of the 1980s, specifically in 1986) more than a quarter century (30 years) in the past. The Supreme Court of Minnesota concluded, in mitigation, that Nora stated at oral argument that she now "can distinguish political arguments that are improperly made from legal theories that are appropriately brought." *In re Disciplinary Action Against Nora*, 450 N.W.2d at 330. Only in the State of Wisconsin, where there is positive statutory recognition that corporate paper being issued to circulate as money must be paid in lawful money of the United States or gold or silver coin has she ever again argued that consideration for a contract which is corporate paper not immediately payable in "money" is invalid.

e. The conduct for which Nora was sanctioned by the 1993 Decision have not been repeated by Nora, except that since she undertook to address legitimate concerns that homes are being subjected to foreclosure actions initiated on false pleadings, based on false documents and supported by falsely sworn affidavits, OLR has undertaken to prosecute Nora in order to conceal the misconduct of mortgage servicing agents' lawyers, who OLR has refused to investigate, and seeks to justify its investigation of Nora, in part based on her long ago disciplinary history involving political actions in which she engaged in the State of Minnesota during the Farm Crisis of the 1980s but in larger part because it illegally obtained and disseminated confidential medical information which had been filed under seal in a federal court matter, in order to make it appear

that the concerns of Nora and her clients about false pleadings, forged documents and falsely sworn affidavits which are ubiquitous in foreclosure cases in the current era are “frivolous” concerns.

f. OLR cannot demonstrate that the 1993 Decision is in any way relevant to this matter, except insofar as OLR, which is acting ultra vires, seeks to justify its unauthorized initiation of this case by referring to conduct for which Nora was disciplined in the State of Minnesota more than 25 years ago to bootstrap its attempt to punish Nora for the exercise of her rights and the rights of her clients to petition the judiciary for redress of grievances. See *Bordenkircher v. Hayes*, 434 U.S. 357, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978); *California Motor Transport Co v. Trucking Unlimited*, 404 U.S. 508, 92 S.Ct. 609, 30 L.Ed.2d 642(1972); and *Bill Johnson Restaurants, Inc. v. National Labor Relations Board*, 461 U.S. 731, 103 S.Ct. 2161, 76 L.Ed.2d 277 (1983)

g. OLR relies on an edited summary of the first paragraph of the text of *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N. W. 2d 99 (1993) alleging at 3.

Nora’s Wisconsin disciplinary history consists of a 30 day suspension as discipline reciprocal to that imposed by the Minnesota Supreme Court for misrepresentations, failing to adequately investigate, bringing a frivolous claim against a bank, inappropriate transfer of assets, and bringing litigation as a delay tactic while asserting a theory that was not justified by existing law.

h. The Wisconsin Supreme Court actually held,

That misconduct consisted of making misrepresentations concerning the reopening *661 and capitalization of a bank, failing to adequately investigate the person who was to provide capital to the bank, improperly authorizing the issuance of cashier checks by the bank [the State Bank of Boyd matter], bringing a frivolous claim against a bank alleging it had obtained an *ex parte* replevin order against her clients in bad faith, transferring assets of her law partnership in Minnesota to a bank account in the name of the partnership in an attempt to insulate those assets from collection efforts on behalf of the

bank that had obtained an award of costs in the frivolous action matter [the Gennrich matter] and bringing litigation primarily as a delay tactic and asserting in it a theory that was not justified by existing law [the Ruud matter].

i. The State Bank of Boyd matter involved a political action undertaken by Nora, her clients who owned a state-chartered bank in rural Minnesota, and a group of over approximately 40 farmers and agriculture-related business in Boyd, Minnesota, who had sought relief from the closing of the State Bank of Boyd and it was Nora's political activity which led to the Minnesota Supreme Court asking its regulatory body, then known as the Minnesota Board of Attorney Responsibility, to investigate the State Bank of Boyd matter.

j. Nora was never able to appeal from the award of sanctions in the Gennrich *ex parte* replevin matter because no final order was ever entered.

k. Nora did not attempt to insulate assets of her law partnership from payment of the then and ever afterward unappealable sanctions order; she formed a professional association to insulate herself and her partners from future liability, created a bank account in the name of the professional association and paid the sanctions award. The portion of the 1990 Minnesota Supreme Court disciplinary decision related to the creation of the professional association and the opening of the bank account was mistaken.

l. With respect to the Ruud matter, the Referee in the reciprocal discipline case and the Supreme Court of Wisconsin can be forgiven for its confusion about the underlying facts and law in *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W.2d 99 (1993) but Nora's money argument that a Minnesota trial court judge found "goes well beyond the imaginative into the depths of absurdity" in the Minnesota case of *Federal Land Bank v. Ruud, et al.* was grounded on the very same constitutional authority as that upon which Wis. Stats. sec. 134.15 is

based. It is undisputed that Federal Land Bank did not loan the Ruuds lawful money of the United States or gold or silver coin. Nora was arguing in good faith for the extension of existing law in the State of Minnesota to require that consideration for contracts be lawful money of the United States or gold or silver coin in conformity with Article One, Section 8, Clause 5 of the *United States Constitution*. See *American Express Co. v. Citizens State Bank*, 181 Wis. 172, 178, 194 N.W. 427 (Wis. 1923), in which the Wisconsin Supreme Court held:

“Neither as included in its powers nor incidental to them is it a part of a bank's business to lend its credit. If a bank [178] could lend its credit as well as its money, it might, if it received compensation and was careful to put its name only to solid paper, make a great deal more than any lawful interest on its money would amount to. If not careful, the power would be the mother of panics, and if no compensation was received, there is the additional reason, if any is needed, that such a power is in derogation of the rights and interests of stockholders, and at all events could only be exercised with the consent of all.

“Indeed, lending credit is the exact opposite of lending money, which is the real business of a bank; for while the latter creates a liability in favor of the bank, the former gives rise to a liability of the bank to another.” 1 Morse, *Banks & Banking* (5th ed.) § 65; Magee, *Banks & Banking* (3d ed.) § 248; 1 Michie, *Banks & Banking*, § 99.

This rule is so well established that it is unnecessary to cite the great number of cases which declare it.

m. Royce and Norma Ruuds took the position that Federal Land Bank has extended its credit to them in the form of a loan and that they had not received lawful consideration for the mortgage granted to Federal Land Bank. While success on the merits was not expected at the trial court level, the Ruuds were attempting to make a record for appeal. The Minnesota Supreme Court held, *In the Disciplinary Action Against Nora*, 450 N.W.2d at 330:

[T]he Ruuds received \$335,000.00 in the form of bank drafts or checks that they used to satisfy obligations to various creditors. On behalf of the Ruuds, Nora brought suit against the Federal Bank on various grounds based on Nora's “money theory,” whereby she argued the Federal Bank did not loan money, but merely extended credit.

n. Technically speaking, Nora did not “bring suit” against the Federal Land Bank on

behalf of the Ruuds, but did file a counterclaim in the foreclosure action brought against the Ruuds by the Federal Land Bank to challenge the validity of the consideration. If there were a failure of lawful consideration, the Federal Land Bank would have had to clear the checks and drafts it issued to the Ruuds and other farmers in lawful money of the United States, which would have increased the quantity of money in circulation in the rural economy of Minnesota, which would have recapitalized the state charter banks which had cleared the checks and drafts from their own accounts, imperiling their own capital and leading to the failure of state chartered banks.

o. Nora had access to evidence that Federal Land Bank's sister corporation, the Production Credit Association (PCA), was using sight drafts which were not paid upon sight as required and that Federal Land Bank could be shown to be engaging in the same unlawful practice. The Ruuds were simultaneously seeking to refinance their agricultural operation and had the intention of repaying the unlawful drafts themselves, after summary judgment of foreclosure was entered. The redemption period for a Minnesota foreclosure of agricultural lands was one year following the Sheriff's Sale (the opposite of Wisconsin where the foreclosure sale takes place after the redemption period has run.) The Ruuds chose not to appeal from the summary judgment decision but sought in good faith to obtain refinancing for their farm, which was difficult because the capital reserves of state-chartered community banks was impaired by the illegal activities of the Federal Land Bank and PCA described herein. Nora attempted to assist the Ruuds in refinancing their farm.

p. The Supreme Court of Minnesota did not conclude that Nora had brought an action against the Federal Land Bank which was not supported by existing law. It found that the

monetary theory presented by Nora was a political issue which could not be adjudicated in the Minnesota courts. *In the Disciplinary Action Against Nora*, 450 N.W.2d at 330.

q. Nora acknowledged that absent positive law such as Wis. Stats. sec. 134.15, the validity of the debt-based, privately-created monetary system is a political issue which cannot be effectively litigated in an individual case.

r. Nora will seek to demonstrate that there is an alternative to the unconstitutional, private, debt-based monetary system which is the most significant issue facing the State of Wisconsin and indeed the entire world.

s. Nora will seek to demonstrate how the unconstitutional, private, debt-based monetary system and has led to unpayable debt and the collapse of the Rule of Law at the hearing to be held commencing on October 31, 2016.

**Regarding the Spencer Matter
OLR Matter No. 2014MA1570
Counts One-Three**

4. Conditionally Responds to ¶4 of OLR's Second Amended Complaint, DENIES the same and affirmatively alleges:

a. Nora reincorporates by reference as if fully set forth herein ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s. t., u., v., w., x., y., z., aa., bb., and cc.

b. OLR knows or should know that ¶4 is not only factually false but is legally impossible. A mortgage note was not issued to Sheila Spencer in any amount.

c. The allegation in ¶4 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c). Moreover, because Nora has repeatedly attempted to explain the factual falsity and legal impossibility of the allegations in ¶4, ¶4 has been pleaded in violation of SCR

20:3.1(a)(2) and (c), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a).

5. Conditionally responds to ¶5 of OLR's Second Amended Complaint, DENIES the same and affirmatively alleges:

a. Nora reincorporates by reference as if fully set forth herein ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s. t., u., v., w., x., y., z., aa., bb., and cc.

b. Starting in October, 2008, National City Bank (of Cleveland, Ohio) as the successor in interest to National City Mortgage Company, an Ohio corporation, which merged with National City Bank on October 1, 2008, became the *mortgage servicing agent* for the Federal Home Loan Mortgage Corporation (Freddie Mac), a fact which was never pleaded in the Spencer foreclosure case.

c. National City Bank (of Cleveland, Ohio) *refused* Ms. Spencer's current loan payment in order to obtain Troubled Asset Relief Program (TARP) funds because it was then and there undercapitalized and was seeking an infusion of taxpayer funds to continue its operations.

d. National City Bank was denied TARP funds.

e. Nora has repeatedly attempted to inform OLR of the true facts underlying the transaction at issue in the Spencer matter and that the allegation in ¶5 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

f. Because Nora has repeatedly attempted to explain the factual falsity of ¶5, ¶5 has been pleaded in violation of SCR 20:3.1(a)(2) and (c), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and entitles Nora to damages pursuant to Wis. Stats. sec. 895.044.

OLR's heading: Circuit Court: Judge Potter, Counsel, Staff

Nora's heading: The State Court Foreclosure Case Commenced by the Undisclosed Mortgage Servicing Agent for Federal Home Loan Mortgage Corporation (commonly known as Freddie Mac) Now Pending on Appeal to the Wisconsin Court of Appeals, District IV in Case Nos. 2014AP002353 and 2015AP001826

6. Conditionally responds to ¶6 of OLR's Second Amended Complaint, ADMITS the same in part, DENIES the same, in part, and affirmatively alleges:

a. Nora reincorporates by reference as if fully set forth herein ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s. t., u., v., w., x., y., z., aa., bb., and cc.

b. Pursuant to SCR 22.11(2), OLR alleged in its November 30, 2015 Complaint and its January 19, 2016 Amended Complaint:

¶6. In October 2008, PNC Bank filed a foreclosure action (Spencer foreclosure) against Spencer's property, the Honorable Gregory J. Potter (Judge Potter) presiding. PNC Bank NA vs. Sheila M Spencer, Wood County Case No. 2013TJ49.

c. Without a determination of cause to proceed by the preliminary review panel of the PRC as required by SCR 22.11(2), OLR now alleges:

¶6. On April 7, 2009, a foreclosure action was initiated against Spencer arising out of the note and mortgage ("Spencer foreclosure") The action was captioned *FNMC, a division of National City Bank of Indiana nka National City Bank, vs. Sheila M. Spencer, et al.*, Wood County Case No. 2009CV283, the Honorable Gregory J. Potter (Judge Potter) presiding.

d. On August 30, 2016, Schwarzenbart represented to the Referee that the allegations in ¶6 of the previous complaint(s) was the result of a typographical error.

e. It is perfectly clear that the designation of 2013TJ49 instead of 2015CV283 in ¶6 of the previous complaint(s) could not have been a typographical error because not a single key in "2013TJ49" is transposed nor was any key struck which would have erroneously resulted from

the attempt to strike the keyboard with the intended result of “2015CV283.”

f. It is further perfectly clear that the phrase “In October 2008” in ¶6 of the previous complaint(s) is not a typographical error in any way associated with the phrase “On April 7, 2009.”

g. It is further perfectly clear that the clause in ¶6 of the previous complaint(s) is not a typographical error “PNC Bank filed a foreclosure action (Spencer foreclosure) against Spencer’s property” mistakenly typed instead of “a foreclosure action was initiated against Spencer arising out of the note and mortgage (‘Spencer foreclosure’).”

h. Schwarzenbart unilaterally removed the identity of the entity which commenced the foreclosure action from ¶6 of the previous complaint(s) and substituted a new theory for the nature of the action from “a foreclosure action . . . against Spencer’s property” to “a foreclosure action was initiated against Spencer arising out of the note and mortgage.

i. Schwarzenbart has altered the identity of the entity which the preliminary review panel determined, as a fact, was the party which filed the foreclosure action against Ms. Spencer’s property to a vague allegation that a nameless entity filed the foreclosure action “arising out of the note and mortgage” in a case captioned “*FNMC, a division of National City Bank of Indiana nka National City Bank, vs. Sheila M. Spencer, et al.*”

j. None of the changes to the previous complaint(s) described in ¶6.d., e., f., g., and h., above, amount to the correction of typographical errors, refuting the finding of the Referee in the August 16, 2016 Order that OLR’s errors are “innocent” because “innocent” errors do not give rise to or require the support of misrepresentations to the Court, as Schwarzenbart did by his August 30, 2016 misrepresentation that the “patent” error in ¶6 of the previous complaint(s) was

typographical in nature.

k. The unavoidable conclusion from the August 30, 2016 misrepresentation of Schwarzenbart, is that he and Stieren are not “innocent” and, on his own ultra vires authority, supported by the falsely sworn June 3, 2016 Affidavit of Stieren, has unilaterally alleged the facts set forth in ¶6 of the Second Amended Complaint because those are the facts that Schwarzenbart, acting on his own, would prefer to attempt to prove.

l. As Nora has consistently stated since May 27, 2016, Schwarzenbart is not the preliminary review panel of the PRC and he lacks the authority to determine cause to proceed against Nora.

m. Nora cannot be forced to admit or deny Schwarzenbart’s personal allegations against her and this tribunal has no subject matter jurisdiction to hear, consider or determine the personal allegations in ¶6 which Schwarzenbart is making against Nora.

n. Preserving her defenses at ¶6. a., b., c., d., e., f., g., h., i., j., k., l. and m., above, and protesting that she has no duty to respond to the ultra vires allegations in ¶6., extra-jurisdictionally approved by the Referee on August 16, 2016 on the unsupported theory that “OLR” made “innocent” errors in charging Nora, Nora responds to ¶6. by admitting, denying and affirmatively alleging:

(1) Denies the legal validity of the case caption of the Spencer foreclosure complaint filed on April 7, 2009 as Wood County Circuit Court 2009CV283 in the name of *FNMC, a division of National City Bank of Indiana nka National City Bank, vs. Sheila M. Spencer, et al.* on April 7, 2016.

(2) Denies that the named plaintiff was the real party in interest entitled to file the

Spencer foreclosure complaint in the name of “*FNMC, a division of National City Bank of Indiana nka National City Bank, vs. Sheila M. Spencer, et al.*”

(3) Admits the date the foreclosure action was commenced by recourse to judicially noticeable facts.

(4) Denies that the foreclosure action “arises out of the note and mortgage” and affirmatively alleges that counsel for the “plaintiff” was representing PNC Mortgage, a division of The PNC Financial Services Group, Inc.; further affirmatively alleges that counsel for the “plaintiff” was instructed or decided to use the name of FNMC, a division of National City Bank of Indiana and added “nka National City Bank” to correspond to the name appearing on the Note and Mortgage in order to conceal the sale of the note and mortgage to the Federal Home Loan Mortgage Corporation (Freddie Mac) years before the commencement of the action; further affirmatively alleges that counsel for “plaintiff” failed to present a true and correct copy of Ms. Spencer’s July 29, 2005 Note as an attachment to the complaint in its current form; and further affirmatively alleges that counsel, in succession, for “plaintiff” concealed all evidence that the mortgagee interest was equitably assigned to Freddie Mac years before the commencement of the action by multiple misrepresentations to the courts up to the date of entry of the Decision of the Wisconsin Court of Appeals in Case No. 2014AP002353.

(5) Affirmatively alleges that Nora informed OLR on multiple occasions that “PNC Bank” did not file a foreclosure action as *PNC Bank NA v. Sheila M. Spencer*, Wood County Case No. 2013TJ49 in October, 2008 and pointed out that it is legally impossible for a 2008 foreclosure action to be assigned Case No. 2013TJ49, explaining that the year assigned to the filing is 2013 and the designation “TJ” stands for Transcript of Judgment.

(6) Affirmatively alleges OLR’s persistence in confusion as to the identity of the “plaintiff” is a product of OLR’s stubborn refusal to believe anything Nora would tell them as well as the deliberate confusion created by counsel for the “plaintiff” which Nora identified in Wood County Circuit Court Case No. 2009CV283 as early as May, 2012.

(7) Affirmatively alleges that although Nora repeatedly attempted to inform OLR of the correct case title of the Spencer foreclosure action and its case number, OLR persisted in its “patent” error through two (2) safe-harbor warnings under Wis. Stats. sec. 802.05(c) on December 3, 2015 and January 25, 2016, two (2) motions pursuant to Wis. Stats. sec. 802.05 (c) on January 5, 2016 and February 17, 2016, Nora’s December 22, 2016 first Jurisdictional Objection, Motion to Dismiss and request for a *Franks* hearing, and Nora’s March 8, 2016 proposed probable cause complaint presented in connection with her request for a *Franks* hearing.

(8) Affirmatively alleges that Schwarzenbart admits in his June 3, 2016 Affidavit that

¶10. In her answer, Ms. Nora makes an issue of paragraph 6 not correctly identifying the Spencer foreclosure case filed in the Circuit Court for Wood County by case number **repeatedly alleging** that “There is no foreclosure case entitled PNC Bank, N.A. v. Sheila M. Spencer, Wood County Case No. 2013T149 filed in October, 2008 or at any other time.” See Nora’s Answer at ¶¶ 8-29. (Emphasis added.)

¶11. **In Nora’s first set of requests for admissions, approximately 25 of the 106 requests specifically reference “Case No. 2013TJ49.”** (Emphasis added.)

(9) Affirmatively alleges, in addition, that on March 28, 2016, OLR responded to Nora’s Jurisdictional Objection and request for a Franks hearing by stating that it was “at a disadvantage” in having to respond to Nora’s Objection because she had not yet answered (OLR Response, page 2), despite the fact that OLR had been served with two (2) safe-harbor notices

and two motions pursuant to Wis. Stats. sec. 802.05(c) prior to that date.

(10) Affirmatively alleges, moreover, that Stieren's June 3, 2016 Affidavit states that Nora provided him with the Wisconsin Circuit Court Access Program Case Events on November 2, 2014 which displayed the correct case number of the Spencer foreclosure case.

(11) Finally, affirmatively alleges that Schwarzenbart's June 3, 2016 Affidavit and OLR's July 8, 2016 discovery demand to Nora demonstrate that OLR had been provided with substantial documentation involving the correct case events and activities on May 11, 2015, prior to the presentation of Stieren's Staff Investigative Report to the PRC.

n. The foregoing undisputed facts are part of Nora's evidence OLR is liable for the damages it has caused Nora in years of intrusion and interference into her lawful and diligent practice of law and specifically for the time and expense she has spent defending the now-admitted to be false November 30, 2015 Complaint and January 19, 2016 Amended Complaint and continuing.

o. The allegation in ¶6 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c) and Wis. Stats. sec. 895.044.

p. Because Nora has repeatedly attempted to explain the factual falsity of ¶6, ¶6 has been pleaded in violation of SCR 20:3.1(1)(a) and (b), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(c), OLR violated Wis. Stats. sec. 895.044 before the tribunal lost subject matter jurisdiction over the complaint for failure to follow SCR 22.11(2). Although the tribunal lost subject matter jurisdiction Nora on OLR's claims in the Second Amended Complaint by the pleading of amended facts and affecting the misconduct allegations which were not set forth by the preliminary review panel of the PRC, the tribunal retains jurisdiction over the counterclaim

for damages in Nora's action under Wis. Stats. sec. 895.044, over which the Referee expressly reserved jurisdiction in his Order of August 16, 2016 to be renewed at the conclusion of the evidentiary proceedings now set to commence on October 31, 2016.

7. Conditionally responds to ¶7 of OLR's Second Amended Complaint, ADMITS that she became successor counsel to Sheila M. Spencer, affirmatively alleges that she entered her limited appearance on May 8, 2012 and further affirmatively alleges:

a. Nora reincorporates by reference as if fully set forth herein ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s. t., u., v., w., x., y., z., aa., bb., and cc.

b. On August 30, 2016, Schwarzenbart represented to the Referee that the allegations in ¶6 of the previous complaint(s) were the result of a typographical error.

c. Nora incorporates ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p., above, in support of her affirmative defenses and in support of her damages action pursuant to Wis. Stats. sec. 895.044 and protests that she has no duty to respond to the ultra vires Second Amended Complaint, the ultra vires allegations in ¶6 and all subsequent allegations affected by the ultra vires alteration to ¶6-31, which includes ¶7 which was extra-jurisdictionally approved by the Referee on August 16, 2016 on the unsupported theory that "OLR" made "innocent" errors in charging Nora and will demonstrate that not only were the errors not "innocent," the failure to identify the correct case number in the previous complaint(s) demonstrates some or all of the following:

(1) The preliminary review panel of the PRC did not determine cause to proceed on the facts or allegations of misconduct in the complaint(s) as it pertains to ¶6-31 prior to the Second Amended Complaint which the preliminary review panel undisputedly did not authorize;

(2) Stieren did not analyze the evidence produced by Nora on November 2, 2014 and include an analysis of the materials provided to OLR by Nora nor did he analyze the materials Nora instructed Alphagraphics Legal to copy and submit to OLR on May 11, 2015 and include any reference to them in the Staff Investigative Report;

(3) Assistant Litigation Counsel Sheryl St. Ores violated SCR 1.1 and 1.4 in pleading the previous complaint(s).

d. Although ¶7 of OLR's Second Amended Complaint finally identifies the case in which Nora became successor counsel to Ms. Spencer, Nora affirmatively alleges that she repeatedly attempted to inform OLR of the true facts underlying the transaction at issue in the Spencer matter, the correct case number and the original and subsequent titles of the case and OLR persistently failed to identify the case in which Nora appeared on Ms. Spencer's behalf in May, 2012 until more almost eight (8) months after above-captioned case was initiated and did so without a cause determination by the preliminary review panel.

e. The allegation in ¶7 in the previous complaint(s) was made in violation of SCR 20:1.1 and 20:1.4, Wis. Stats. sec. 802.05(2)(b) and (c).

f. Because Nora has repeatedly attempted to explain the factual falsity of ¶7, ¶7 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(b), OLR violated Wis. Stats. sec. 895.044 before the tribunal lost subject matter jurisdiction over the complaint for failure to follow SCR 22.11(2). The tribunal retains jurisdiction over the counterclaim for damages under Wis. Stats. sec. 895.044. That OLR persists in proceeding against Nora on the unauthorized Second Amended Complaint is further evidence of its violations of Wis. Stats. sec. 895.044.

8. Conditionally responds to ¶8 of OLR's Second Amended Complaint, DENIES the same and affirmatively alleges:

a. Nora reincorporates by reference as if fully set forth herein ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s. t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m, n., o. and p. and ¶7.c., above, and protests that she has no duty to respond to the ultra vires allegations in ¶6, which alters the content of not just OLR's ¶6, but subsequent ¶¶7-31 and Nora's entire defense in the proceedings.

b. The Referee's ultra vires Order of August 16, 2016 rejects "any suggestion" that the complaint shall set forth only those facts and misconduct allegations for which the preliminary review panel determined there was cause to proceed.

c. The Referee concluded that "OLR" made "innocent" errors in setting forth the facts and misconduct allegations in ¶6 and ¶19.

d. Under SCR 22.11(2) the only facts and allegations to be set forth in a complaint seeking to lawyer discipline are those for which cause to proceed has been determined by the preliminary review panel of the PRC.

e. Nora repeatedly attempted to inform OLR of the true facts underlying the transaction at issue in the Spencer matter, the correct case number and the original and subsequent titles of the case and OLR persistently failed to identify the case in which Nora appeared on Ms. Spencer's behalf in May, 2012 until almost eight (8) months after the filing of the above-captioned matter.

f. OLR still has not correctly identified any case in which Nora supposedly made the allegation that "that plaintiff, its related entities, and its attorneys were 'part of a grand, national

mortgage fraud scheme” as alleged in ¶8.

g. Although OLR does not identify the plaintiff, related entities or attorneys who Nora supposedly alleged were “part of a grand, national mortgage fraud scheme,” Nora denies that she ever alleged that any plaintiff, its related entities, and its attorneys were “part of a grand, national mortgage fraud scheme” orally or in writing at any time.

h. Nora affirmatively defends that in appropriate cases, based on substantial evidence and in accordance with existing law, Nora has specifically pleaded violations of the Racketeer Influenced and Corrupt Organizations Act (RICO) at 18 U.S.C. sec. 1961, et seq. [private right of action at 18 U.S.C. sec. 1964(c)], as she did in Rinaldi adversary proceeding in WIEB Case No. 12-02412, or state common law fraud, as she pleaded in the Spencer foreclosure action on March 26, 2013.

i. Nora’s litigation practice includes, but is not limited to, the pleading of facts in support of defenses against foreclosure which involve allegations of fraud when supported by substantial evidence (clear and convincing evidence is required to prove fraud) and where pursuit of such defenses is in the interest of her clients.

j. Nora has filed pleadings including claims or counterclaims, third party complaints and defenses based on fraud based on substantial evidence and in accordance with existing law, to the extent possible in view of limited resources of property owners compared to the unlimited funding available to mortgage servicing agents.

k. Nora repeatedly attempted to inform OLR of the true facts upon which she relied in pleading fraud in the Spencer foreclosure, in an existing controversy which was then on appeal, provided OLR with the correct case number for the Spencer foreclosure case and sought to

inform OLR of the various identities which have been used to identify the “plaintiff,” falsely pleaded to be the **owner and holder** of Ms. Spencer’s Note and Mortgage in response to its inquiry into the Spencer matter.

l. Nora did not and could not have anticipated that a false and unprovable complaint would be amended according to conflicting evidence at summary judgment in the Spencer foreclosure case, much less that the summary judgment would be upheld on appeal.

m. OLR has persisted in failing to identify the case in which the preliminary review panel determined there was cause to proceed against Nora because she alleged that “the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme” to this very day.

n. Despite the fact that OLR has been on notice that Nora knows of no case in which she alleged that “the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme” since December 3, 2015, OLR has failed to identify any case in which Nora made such an allegation.

o. After Nora’s extensive responses to OLR’s inquiries into the Spencer matter during the investigative phase overseen by Stieren; after the preliminary review panel of the PRC was required to have determined cause to proceed and after only those facts and allegations of misconduct for which the preliminary review panel found cause to proceed; after Nora’s safe harbor notices and motions pursuant to Wis. Stats. sec. 802.05(3)(a), her Verified Jurisdictional Objections and Motions to Dismiss the November 30, 2016 Complaint and the January 19, 2016 Amended Complaint which specifically stated that ¶8 does not identify any case involving Ms. Spencer in which Nora alleged that “the plaintiff, its related entities, and its attorneys were part

of a grand, national mortgage fraud scheme” (giving rise to the reasonable inference that the preliminary review panel did not review any document or transcript of any proceedings in the Spencer foreclosure case in which Nora made that allegation); and even after she answered ¶8 of the January 19, 2016 Amended Complaint on May 16, 2016 and filed the corrections to the Answer on May 20, 2016, OLR’s false factual allegation that Nora stated that those involved in the Spencer foreclosure were part of a “grand, national mortgage fraud scheme” persisted and persists to this day.

p. In every version of all of the complaint(s) purporting to initiate disciplinary proceedings based on the facts set forth the allegation in ¶8 of the complaints in Nora #2 OLR, presumably upon the authority of a cause determination by the preliminary review panel of the PRC, contains the same, false allegation against Nora, to wit:

Nora alleged the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme.

q. The language of ¶8 is identical language in ¶55 of the attempted Second Amended Complaint in Nora #1 submitted by “Notice of Filing” on September 25, 2015; appears in ¶8 of the November 30, 2015 Complaint in Nora #2; and appears again in ¶8 of the January 19, 2016 Amended Complaint—all of which commenced or continued the prosecution of Nora under the false allegation that she alleged that “the plaintiff, its related entities, and its attorneys were part of a grand, national mortgage fraud scheme” in Wood County Circuit Court Case No. 2013CV49.

r. That same language appears again in the extra-jurisdictional August 18, 2016 Second Amended Complaint under the unauthorized amendment to ¶6 which makes a surreptitious

doubly unauthorized amendment to ¶1 in which Schwarzenbart purports to grant the Referee the power to circumvent the PRC without even obtaining the (jurisdictionally impossible) permission of the Referee to amend ¶1.

s. It is undisputed that the requirement of SCR 22.11(2) that the complaint shall set forth only those facts and misconduct allegations for which the preliminary review panel of the PRC found cause to proceed under both its plain meaning and the Rules of Construction of Rules of Court at SCR 99.001(14) was not followed prior to the filing of the Second Amended Complaint in Nora #2.

t. In its effort to conceal the breadth and scope of the knowing or reckless errors in its three (3) previous complaint(s), Schwarzenbart and Stieren intentionally (together acting ultra vires as the self-appointed PRC) made no effort to examine the factual basis for the allegation in ¶8 which has now appeared three (3) times in Nora #2 and once in Nora #1.

u. OLR made no effort to identify the correct case upon which the preliminary review panel of the PRC determined cause to proceed with the allegations in ¶6-31, including this ¶8, until after Nora commenced discovery into the factual support for allegations in the January 19, 2016 Amended Complaint.

v. Upon information and belief, Stieren, the preliminary review panel of the PRC and Attorney St. Ores never reviewed the case file in Wood County Circuit Court Case No. 2009CV000283, in *FNMC, a division of National City Bank of Indiana nka National City Bank v. Spencer, et al.*, commenced on April 7, 2009, despite the fact that Nora informed OLR that the entire case file had been located one floor below OLR's office in the Tenney Building, 110 East Main Street, in Madison, Wisconsin 53703 at the Wisconsin Court of Appeals since January 2,

2015 and remained at that location up to the time of the remittitur on July 27, 2016. Nora first informed OLR of the location of the complete court record in the Spencer foreclosure case on December 3, 2015 and continued to inform OLR of the location of the complete record of all filings in the Wood County Circuit Court case in numerous filings up to and including Nora's May 20, 2016 Corrected Answer. See ¶¶13, 14, 15, 16, 17, 18, 19 and 24 of Nora's December 3, 2015 Safe Harbor Notice to OLR Assistant Litigation Counsel Sheryl St. Ores (St. Ores) and OLR Director Keith Sellen (Director Sellen). See also Nora's December 22, 2015 Verified Jurisdictional Objection and Notice of Motion and Motion for a *Franks* Hearing to Dismiss for Lack of Probable Cause; Further or Alternative Motion to Dismiss For Selective and Vindictive Prosecution; and Further or Alternative Motion to Dismiss as a Sanction Fo (sic) Bad Faith Initiation and Continuation of These Proceedings and the Companion Case Identified Herein as Nora #1, at ¶¶ 139.b., 141, 142, 143, 144, 145, 146. 147 and 152. See also Nora's January 5, 2016 Motion for Sanctions at ¶¶13, 14, 15, 16, 17, 18, 19 and 24. See also Nora's January 25, 2016 Safe-Harbor Notice to St. Ores and Director Sellen at ¶¶3, 5, 6, 7, 9, 11, 12, 13, 14, 16 and 31 which is also attached as Exhibit 1 to Nora's February 17, 2016 Motion for Sanctions arising from the filing of the January 19, 2016 Amended Complaint.

w. Although the actual court records in Wood County Circuit Court Case No. 2009CV283 were located one floor below OLR's office in the Tenney Building, 110 East Main Street, in Madison, Wisconsin 53703 at the Wisconsin Court of Appeals since approximately January 2, 2015 until remittitur on or about July 27, 2016 and could have been copied by any member of the public for 10 cents per page, Stieren, St. Ores and Schwarzenbart did not seek to retrieve "true and authentic" copies of any of the records.

x. Instead, Schwarzenbart demanded that Nora admit that documents which had not been retrieved from court records were “true and authentic” copies of documents filed with the court in the Spencer foreclosure case, which they were not.

y. On August 30, 2016, at a hearing conducted in absence of subject matter jurisdiction, the Referee “deemed” that Nora admitted that copies of numerous documents which were not “true and authentic” copies of documents filed with the Wood County Circuit Court or entered into the record of the proceedings in the Spencer foreclosure were “true and authentic” copies of documents filed in court records.

z. The majority of the documents which were denied as not “true and authentic” were not copies from the court’s record, but, Nora later learned, were copies of documents which Nora had instructed to be delivered to OLR by Alphagraphics Legal in Madison, Wisconsin on May 11, 2016.

aa. The allegation in ¶8 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

bb. Schwarzenbart’s August 30, 2016 misrepresentation that the contents of ¶6 were the result of a typographical error was knowingly or recklessly made in bad faith in an apparent attempt to prevent the recognition of the Court that filing of the Second Amended Complaint divested the tribunal of subject matter jurisdiction, to minimize the alterations to the Second Amended Complaint in order to limit Nora’s litigation rights under the Second Amended Complaint if the tribunal had not been divested of subject matter jurisdiction by the filing of the Second Amended Complaint on August 18, 2016.

cc. Moreover, because Nora has repeatedly attempted to explain the factual falsity of ¶8,

¶8 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

9. Conditionally responding to ¶9 of OLR's Second Amended Complaint, ADMITS and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p., ¶7.c., and 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. OLR has disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully detailed the issues in the Spencer foreclosure case.

c. The wording of OLR's ¶9 demonstrates OLR's lack of knowledge of the issues in all Wisconsin foreclosure cases.

d. If by "correct plaintiff" OLR means that the party identified as the plaintiff must be the party entitled to the remedy of foreclosure, that is a requirement of the law of the State of Wisconsin.

e. The identity of the entity holding the Note is an issue in every Wisconsin foreclosure case.

f. The identity of the party entitled to enforce the Note is an issue in every Wisconsin foreclosure case.

g. If the party seeking the remedy of foreclosure is not the entity to which the mortgagee interest was granted, the party must show that it is entitled to payment or performance of the

security interest under Wis. Stats. sec. 409.203.

h. The allegation in ¶9 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c) insofar as it implies that it was unethical for Nora to require proof that the party seeking the remedy of foreclosure was entitled to do so.

i. Nora has repeatedly attempted to explain to OLR that the law of the State of Wisconsin requires a party seeking to foreclose on Wisconsin real estate to establish that it is the holder of the Note and there is nothing unethical about an attorney for a property owner to require evidence of that fact.

j. The identity of the party holding the Note is the fundamental issue in Wisconsin foreclosure proceedings because only the holder of the Note, or its authorized agent, is entitled to enforce it. *Dow Family, LLC v. PHH Mortgage Corporation, et al.*, 2014 WI 56, 354 Wis.2d 796, 848 N.W.2d 728 (2014).

k. Like ¶4, OLR's ¶9 demonstrates a lack of understanding by OLR of the basics of commercial transactions under the Uniform Commercial Code.

l. There is nothing unethical about Nora's legal position that the plaintiff must be the holder of the Note.

10. Conditionally responds to ¶10 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p., ¶7.c., and 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES that as of the date that the preliminary review panel of the PRC purportedly

found cause to proceed on ¶10 there was a final determination of the identity of the party entitled to enforce the Note.

c. ADMITS that on May 19, 2016 the Wisconsin Court Appeals, affirmed the decision of the Wood County Circuit Court in the Spencer foreclosure.

d. Affirmatively alleges that on June 7, 2016, Ms. Spencer moved for reconsideration of the May 19, 2016 Decision of the Wisconsin Court of Appeals.

e. Affirmatively alleges that on June 14, 2016, the Wisconsin Court of Appeals denied Ms. Spencer's Motion for Reconsideration.

f. Affirmatively alleges that Ms. Spencer did not appeal from the Decision of the Wisconsin Court of Appeals.

g. Affirmatively alleges that on July 27, 2016, remittitur was entered in the Spencer foreclosure case.

h. ADMITS that there is a final Decision affirming the judgment of foreclosure in Wood County Circuit Court Case No. 2009CV283 which was entered approximately 20 months after the preliminary review panel of the PRC found cause to proceed on ¶10, alleging that the "court" determined that PNC Bank, N.A. was the correct party plaintiff from which relief may be had only pursuant to Wis. Stats. sec. 806.07.

i. Affirmatively alleges that "PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC" was not determined to be the owner of the Note as alleged in the foreclosure complaint.

j. The allegation in ¶10 was made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(a) and (b).

k. Because Nora has repeatedly attempted to explain the legal error of relying on judgment which was pending on appeal, ¶10 was pleaded in violation of SCR 20:3.1(1)(a) and (c), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (b).

11. Conditionally responds to ¶11 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p., ¶7.c., and 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES paragraph 11 insofar as it alleges "Throughout the litigation, Nora accused opposing counsel of fraudulently concealing the identity of the real party interest and engaging in 'actionable civil fraud and racketeering [that] may constitute state and federal criminal misconduct.'"

c. Affirmatively alleges that she reported her concerns about possible criminal misconduct to the Seventh Circuit Court of Appeals in a single writing, as she is required to do pursuant to 18 U.S.C. sec. 4.

d. ADMITS that Nora reported that the conduct involved in the attempt to confiscate Ms. Spencer's home for debt not owed to the foreclosure claimant "constitutes actionable civil fraud and racketeering and may constitute state and federal criminal misconduct" because she has a duty to report federal crimes under 18 U.S.C. sec. 4 under penalty of being guilty herself of misprision of a felony.

e. Affirmatively alleges that Nora is required to report federal felonies of mail fraud and wire fraud of which she has personal knowledge, to pursue direct appeals allowed by law, and to

defend her clients' interests within the bounds of the law. To attempt to punish Nora for doing what the law not only allows her to do, but requires her to do is a violation of her due process rights. See *Bordenkircher v. Hayes*, 434 U.S. 357, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978), "To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort, . . . and for an agent of the State to pursue a course of action whose objective is to penalize a person's reliance on his legal rights [here, Nora's affirmative duties] is "patently unconstitutional."

f. Affirmatively alleges that statement to the Seventh Circuit Court of Appeals was true and is protected under the First Amendment to the *United States Constitution* and Article One, Section 3 of the *Wisconsin Constitution*.

g. Affirmatively alleges that counsel for the plaintiff did indeed conceal the identity of the real party in interest, which was discovered to be the Federal Home Loan Mortgage Corporation (Freddie Mac), eventually admitted to be Freddie Mac, and, as new evidence discovered during the pendency of the appeal, confirmed by Freddie Mac itself.

h. The allegation in ¶11 is made in violation of Wis. Stats. sec. 802.05(2)(a), (b) and (c).

i. During the course of her representation of Spencer in the state court proceedings and terminated when Spencer decided not to file a Petition for Review to the Wisconsin Supreme Court, Nora and Spencer discovered that the real party in interest in the Spencer case was not the three (3) different names in which the mortgage servicer proceeded against Ms. Spencer.

j. By commencing and continuing the action in three (3) false identities and capacities, the entity, which was actually the mortgage servicing agent for Freddie Mac, avoided federal jurisdiction under 28 U.S.C. sec. 1349.

k. Three (3) different names were used to identify the purported to be the “owner and holder” of Ms. Spencer’s mortgage all of which were, in actuality, the mortgage servicing agent for Freddie Mac.

l. Although three (3) different names were used to identify the concealed mortgage servicing agent which never pleaded its capacity as servicing agent, a fact which is no longer in dispute.²

m. The allegation in ¶11 is made in violation of SCR 20:1.1 (competence) and 20:1.4 (diligence) and Wis. Stats. sec. 802.05(2)(c).

12. Conditionally responds to ¶12 of OLR’s Second Amended Complaint, ADMITS and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h.,

² FNMC, a division of National City Bank of Indiana nka National City Bank commenced the foreclosure action against Ms. Spencer on April 7, 2009 and alleged that it “is the owner and holder of a certain note and mortgage” at ¶1 of the initiating Complaint, brought a Motion for Summary Judgment supported by a falsely sworn affidavit of one Mendy Munday, an employee of PNC Bank, N.A., who claimed that the “plaintiff” was the owner of the Note. The Motion for Summary Judgment was filed on March 31, 2010 on a unilaterally altered case caption, identifying PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank as the “plaintiff.” The “plaintiff’s” filings then proceeded under the unilaterally altered case caption identifying PNC Bank, N.A., successor by merger to FNMC, a division of National City Bank of Indiana n/k/a National City Bank, while the plaintiff was still identified as FNMC, a division of National City Bank of Indiana nka National City Bank on the Wood County Circuit Court docket. Upon Ms. Spencer’s challenge to the identity of the entity proceeding against her, PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC was allowed to appear as the plaintiff in the action on December 21, 2012 on an Amended Complaint which still alleged, at ¶1, that it “is the owner and holder of a certain note and mortgage.” The third identified entity was required, as a matter of law, to prove by a preponderance of evidence that it is the owner and holder of the (then discharged) Note and (unassigned) Mortgage. The serial plaintiffs concealed their capacity as servicing agent for Freddie Mac until February 18, 2014 when it was finally admitted that PNC Bank, N.A. was acting as the servicing agent for Freddie Mac, as successor to National City Mortgage Company, just as Ms. Spencer had discovered on December 30, 2012 and had contended in litigation since January 10, 2013.

i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p., ¶7.c., and 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. ADMITS ¶12.

c. Affirmatively alleges that Nora repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction could be found, which case file was located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 from approximately January 2, 2015 until the July 27, 2016 remittitur, but OLR failed and refused to examine the actual court record for the correct case until approximately May, 2016.

d. Affirmatively alleges that OLR disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully explained the issues in the actual, properly identified case, causing Nora to respond to a total of three (3) previous complaints and then OLR circumvented the mandatory requirements of SCR 22.11(2) in order to file a Second Amended Complaint, forcing Nora to conditionally respond to the fourth filed complaint for the improper purpose of harassing Nora at the behest of her litigation opponents, one of whom was the chairperson of the PRC when Nora #1 was approved for filing.

e. The allegation in ¶12 was made in the context of a "patently erroneous" case identification in three (3) previous complaints in violation of SCR 20:1.1 (competence) and 20:1.4 (diligence) and Wis. Stats. sec. 802.05(2)(c).

f. The "fix" of finally identifying the correct case in which Nora appeared as substitute counsel for Ms. Spencer was made unilaterally by Schwarzenbart, in concert with Stieren,

circumventing the mandatory procedure at SCR 22.11(2) and was approved for filing by the Referee.

13. Conditionally responds to ¶13 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z and ¶12.d.

b. DENIES ¶13.

c. Affirmatively alleges that Nora repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction could be found, which case file was located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 since approximately January 2, 2015 until the July 27, 2016 remittitur, but OLR failed and refused to examine the actual court record for the correct case until approximately May, 2016.

d. Affirmatively alleges that, having reviewed the record in the actual case, OLR was required to amend ¶13 to conform to the true facts.

e. Affirmatively alleges that OLR has disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully detailed the issues in the actual, properly identified case, causing Nora to respond to a total of three (3) previous complaints and then circumvented the mandatory requirements of SCR 22.11(2) in order to file a Second Amended Complaint, forcing Nora to conditionally respond to the fourth filed complaint

for the improper purpose of harassing Nora at the behest of her litigation opponents, one of whom was the chairperson of the PRC when Nora #1 was approved for filing.

f. Affirmatively alleges that if OLR read the transcript of the hearing held on May 23, 2016, which Nora provided to OLR, or if it had retrieved and reviewed the transcript of the May 23, 2016 hearing, it would have known that the judge did not make any statement at the May 23, 2012 hearing that the list of issues to be identified were to be “issues for summary judgment.”

g. Affirmatively alleges that ¶13 is knowingly or recklessly pleaded without a factual basis contrary to SCR 20:3.1(a)(2) to support OLR’s prosecution of Nora in bad faith in order to punish her for exercising her constitutional rights and is evidence of OLR’s unconscionable alignment with Nora’s litigation opponents.

h. Because Nora repeatedly attempted to explain the factual falsity of ¶13 to OLR, and OLR has failed to amend ¶13, ¶13 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a).

14. Conditionally responds to ¶14 of OLR’s Second Amended Complaint ADMITS, in part, and DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p., ¶7.c., and 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES ¶14 insofar as it suggests that Nora received the May 25, 2012 letter prior to having the letter and its enclosure physically retrieved from the office of the Wood County Circuit Court Clerk.

c. ADMITS ¶14 insofar as the letter enclosing the proposed order was sent to and

received by the Wood County Circuit Court.

d. DENIES ¶14 insofar as it suggests that the contents of the proposed order involved a timeline for summary judgment issues and affirmatively alleges that the proposed order attempted to convert Judge Potter's May 23, 2012 instruction to Nora to provide him with a list of issues in the proceedings to a list of issues for summary judgment.

e. Affirmatively alleges that Nora repeatedly attempted to inform OLR of the case name and case number and directed OLR to the location at which the entire court record for the actual case involving the Spencer mortgage transaction could be found, which case file was located one floor below OLR's office at the Clerk of Appellate Court at 110 East Main Street in Madison, Wisconsin 53703 from approximately January 2, 2015 until the July 27, 2016 remittitur, but OLR failed and refused to examine the actual court record for the correct case until approximately May, 2016.

f. Affirmatively alleges that, having reviewed the record in the actual case, OLR was required to amend ¶14 to conform to the true facts.

g. Because Nora repeatedly attempted to explain the factual falsity of ¶14 to OLR, and OLR has failed to amend ¶14, ¶14 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

h. OLR disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which fully detailed the issues in the actual, properly identified case.

i. The allegation in ¶14 is made in violation of SCR 20:1.1 (competence) and 20:1.4 (diligence) and Wis. Stats. sec. 802.05(2)(c).

j. The allegation in ¶14 is made in violation of SCR 20:1.1 (competence) and 20:1.4

(diligence) and Wis. Stats. sec. 802.05(2)(c).

15. Conditionally responds to ¶15 of OLR's Second Amended Complaint, ADMITS and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. ADMITS ¶15 insofar as she eventually obtained a copy of the May 25, 2012 letter referred to in ¶15 after June 28, 2012.

c. Affirmatively alleges that on June 28, 2012, Nora saw that an order had been entered according to the Wisconsin Circuit Court Access Program (CCAP).

d. Affirmatively alleges that Nora immediately contacted the Clerk of Wood County Circuit Court and advised the Deputy Clerk that she had not received a copy of the proposed order before it was signed and asked the Clerk to FAX it to her.

e. Affirmatively alleges that the Clerk refused to do so, so Nora instructed Ms. Spencer to drive to the Courthouse, retrieve a copy of the correspondence and proposed order and Ms. Spencer did so shortly thereafter.

f. Affirmatively alleges that Nora received the letter and proposed order, along with a signed copy of the order from Ms. Spencer after June 28, 2012.

g. Affirmatively alleges that OLR disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, causing Nora to respond to a total of three (3) previous complaints and then OLR circumvented the mandatory requirements of SCR 22.11(2) in order to file a Second Amended Complaint, forcing Nora to conditionally respond to the fourth filed

complaint for the improper purpose of harassing Nora at the behest of her litigation opponents, one of whom was the chairperson of the PRC when Nora #1 was approved for filing.

h. OLR disregarded Nora's extensive and detailed responses to OLR's inquiries into the Spencer matter, which addressed in detail, when and how she received the May 25, 2012 letter.

i. The allegation in ¶15 is made in violation of SCR 20:1.1 (competence) and 20:1.4 (diligence) and Wis. Stats. sec. 802.05(2)(c).

j. The allegation in ¶15 is made in violation of SCR 20:1.1 (competence) and 20:1.4 (diligence) and Wis. Stats. sec. 802.05(2)(c).

16. Conditionally responds to ¶16 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES ¶16 in its entirety and puts OLR to its strict proof by clear and convincing evidence that "Judge Potter sent the parties via letter a signed order in which he acknowledged he converted the May 23, 2012 summary judgment hearing to a scheduling conference and provided a timeline for summary judgment issues."

c. Affirmatively alleges that no such letter exists.

e. Affirmatively alleges that ¶16 is a false allegation, knowingly or recklessly made in violation of SCR 20:3.3(a)(1) because there is no letter from Judge Potter and Nora informed OLR of that fact on at least three (3) occasions and instructed OLR where and how it could verify that no such letter exists.

f. Affirmatively alleges, OLR is manufacturing fictitious facts, or obtained false information from a third party which it did not verify, or simply orally inquired of some unidentified witness as to whether or not a letter enclosing the order was sent by Judge Potter to Nora, which no one from OLR ever verified by simply walking down one flight of stairs in the Tenney Building (or taking the elevator) to examine the complete court record of the actual case, which has been located at the Clerk of Appellate Court's office in Suite 215 of the Tenney Building since January 2, 2015 almost one year before these proceedings were initiated.

g. Affirmatively alleges that, having reviewed the record in the actual case, OLR was required to amend ¶16 to conform to the true facts.

h. Because Nora repeatedly attempted to explain the factual falsity of ¶16 to OLR, and OLR has failed to amend ¶16, ¶16 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

i. Affirmatively alleges the allegation in ¶16 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

j. Affirmatively alleges that because Nora has repeatedly attempted to explain the factual falsity of ¶16, ¶16 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

17. Conditionally responds to ¶17 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES ¶17 in its entirety and puts OLR to its strict proof by clear and convincing evidence.

c. OLR has knowingly or recklessly falsely alleged that Judge Potter ever sent any letter and order, final or otherwise, in any case which Nora has denied receiving.

d. ¶17 is a complete fiction and is a false allegation made in violation of SCR 20:3.3(a)(1).

e. Affirmatively alleges that ¶17 is a false allegation, knowingly or recklessly made in violation of SCR 20:3.3(a)(1) because there is no letter from Judge Potter and Nora informed OLR of that fact on at least three (3) occasions and instructed OLR where and how it could verify that no such letter exists.

f. Affirmatively alleges, OLR is manufacturing fictitious facts, or obtained false information from a third party which it did not verify, or simply orally inquired of some unidentified witness as to whether or not a letter enclosing the order was sent by Judge Potter to Nora, which no one from OLR ever verified by simply walking down one flight of stairs in the Tenney Building (or taking the elevator) to examine the complete court record of the actual case, which has been located at the Clerk of Appellate Court's office in Suite 215 of the Tenney Building since January 2, 2015 almost one year before these proceedings were initiated.

g. Affirmatively alleges that, having reviewed the record in the actual case, OLR was required to amend ¶17 to conform to the true facts.

h. Because Nora repeatedly attempted to explain the factual falsity of ¶17 to OLR, and OLR has failed to amend ¶17, ¶17 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

i. Affirmatively alleges the allegation in ¶17 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

j. Affirmatively alleges that because Nora has repeatedly attempted to explain the factual falsity of ¶17, ¶17 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

18. Conditionally responds to ¶18 of OLR's Second Amended Complaint DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

c. OLR has knowingly or recklessly falsely alleged that Judge Potter ever sent any letter and order, final or otherwise, in any case which Nora has denied receiving.

b. DENIES ¶18.

c. Affirmatively alleges that ¶18 is a false allegation incompetently made in violation of SCR 20:1.1 because Nora has repeatedly informed OLR that Judge Potter had no duty to send any letters or orders to Nora; the duty to serve Nora with all documents filed in the Wood County

Circuit Court is the duty of the lawyer representing the filing party.

d. Affirmatively alleges that ¶18 is a false allegation, knowingly or recklessly made in violation of SCR 20:3.3(a)(1) because Nora has never contended that Judge Potter was required to send her letters or orders as alleged in ¶17 and ¶18 and Nora informed OLR of that fact on at least three (3) occasions and instructed OLR where and how it could verify that letter from Judge Potter was ever sent to either party.

e. Affirmatively alleges that, having reviewed the record in the actual case, OLR was required to amend ¶18 to conform to the true facts.

f. Because Nora repeatedly attempted to explain the factual falsity of ¶18 to OLR, and OLR has failed to amend ¶18, ¶18 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

g. Affirmatively alleges the allegation in ¶16 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

h. Affirmatively alleges that because Nora has repeatedly attempted to explain the factual falsity of ¶18, ¶18 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

19. Conditionally responds to ¶19 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h.,

i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES ¶19 insofar as it alleges that the “letters and pleadings” filed with the court on or about March 31, 2010, February 17, 2011, and June 20, 2011 were “additional” ex parte communications.

c. Affirmatively alleges that the events and activities occurring on or about the following dates: March 31, 2010, April 6, 2010, April 19, 2010, June 17, 2011 and June 21, 2011 deprived Ms. Spencer of her rights to due process and equal protection of the laws guaranteed by the First Amendment to the *United States Constitution* and Article One, Section 1 of the *Wisconsin Constitution* and her rights to petition the judiciary for redress of grievances guaranteed by the First Amendment to the *United States Constitution* and Article One, Section 4 of the *Wisconsin Constitution* because:

(1) Ms. Spencer was not given the opportunity to be heard in opposition to the March 31, 2010 Motion for Summary Judgment on the statutory 20 days’ notice.

(2) Ms. Spencer was not given the opportunity to be heard with respect to the June 17 (or 20), 2011 Petition to Re-Open and Vacate the April 19, 2010 Judgment.

d. Affirmatively alleges that Ms. Spencer has consistently stated that she did not receive the Court’s version of the February 17, 2011 letter and received a different version of the February 17, 2011 letter, which was not filed with the Court.

e. DENIES ¶18 insofar as it summarizes and mischaracterizes Nora’s position with respect to the processes employed in the Spencer foreclosure on or about “March 31, 2010, February 17, 2011, and June 20, 2011.”

f. Affirmatively alleges that Nora raised the following concerns related to those dates:

(1) The March 31, 2010 Motion for Summary Judgment scheduled the hearing on the motion for March 31, 2010, contrary to Wis. Stats. sec. 802.08 and was mailed to Ms. Spencer.

(2) An Amended Notice of Motion dated April 6, 2010 was sent to Ms. Spencer setting hearing on the Summary Judgment Motion for April 19, 2010.

(3) An order granting summary judgment was entered on April 19, 2010.

(4) Ms. Spencer was denied her right to be heard in opposition to summary judgment on the minimum 20 days' statutory notice.

(5) There are two (2) versions of the February 17, 2011 letter, one was sent to the Court and disclosed an "affidavit issue" and was not sent to Ms. Spencer, and the other was sent to Ms. Spencer and not to the Court which simply cancelled the scheduled Sheriff's Sale.

(6) Ms. Spencer did not discover that counsel for what was later discovered to be Freddie Mac's servicing agent admitted that there was an "issue" with respect to the Affidavit in Support of the March 31, 2010 Motion for Summary Judgment until 2012 because she did not receive the identical version of the copy of the letter sent to the Court dated February 17, 2011.

(7) By Petition dated June 17, 2011 under cover letter dated June 20, 2011 (a Sunday) counsel for Freddie Mac's servicing agent petitioned the Court to re-open the April 19, 2010 order granting summary judgment by seeking an order without hearing on "five (5) days' notice"³ to Ms. Spencer.

(8) On June 21, 2011, the Court entered an Order vacating the April 19, 2010 Judgment of Foreclosure without Ms. Spencer being provided with an opportunity to be heard.

³ Wood County Circuit Court does not have a local "five (5) day" rule.

g. Affirmatively alleges that Nora's position with respect to the order is fully and completely set forth in the record of the proceedings by her Affidavit of June 28, 2012.

h. Affirmatively alleges that the legal positions that Nora took on behalf of Spencer were taken in good faith, based on substantial evidence and were in accord with existing law.

i. Affirmatively alleges that OLR has knowingly or recklessly falsely alleged that Nora ever contended that Judge Potter was required to send her a copy of any order, final or otherwise.

j. Affirmatively alleges that ¶19 is substantially false and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:1.4.

k. Affirmatively alleges that ¶19 is a substantially false allegation, knowingly or recklessly made in violation of SCR 20:3.3(a)(1) because Nora informed OLR of the position she took on behalf of Ms. Spencer with respect to the issues with respect to the events and activities which resulted in Orders dated April 19, 2010 and June 21, 2011 as well as the two (2) versions of copies of the February 17, 2011 letter (one of which was not sent to Ms. Spencer and the other was not sent to the Court) on at least three (3) occasions and instructed OLR and provided OLR with her legal position with respect to the order.

l. Affirmatively alleges that OLR could have verified the actual statements with respect to the events and activities by simply walking down one flight of stairs in the Tenney Building (or taking the elevator) to examine the complete court record of the actual case, which had been located at the Clerk of Appellate Court's office in Suite 215 of the Tenney Building since January 2, 2015 almost one year before these proceedings were initiated.

m. Affirmatively alleges that, having reviewed the record in the actual case, OLR was required to amend ¶19 to conform to the true facts, but instead of seeking to amend ¶19 to conform to true facts, OLR knowingly or recklessly sought leave to amend ¶19 (without the authority of the preliminary review panel of the PRC) to render it more vague and ambiguous and still substantially false.

n. Affirmatively alleges the allegation in ¶19 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

o. Because Nora repeatedly attempted to explain the factual falsity of ¶19 to OLR, and OLR has failed to amend ¶19, ¶19 has been pleaded in violation of SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

p. Affirmatively alleges that because Nora has repeatedly attempted to explain the factual falsity of ¶19, ¶19 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), and SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

20. Conditionally responds to ¶20 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. Affirmatively alleges that there was never any dispute that the affidavit of mailing

referenced in ¶20 was filed in an actual case.

c. Affirmatively alleges that the issues of ex parte communications she raised in the Spencer foreclosure case, not identified by OLR until May 26, 2016 (despite Nora's extensive efforts to inform OLR of the facts and law applicable to the Spencer foreclosure) never involved any issue related to whether or not a March 31, 2010 letter was mailed to Ms. Spencer, which Ms. Spencer has consistently admitted.

d. Affirmatively alleges that to the extent the preliminary review panel of the PRC found cause to proceed on ¶20 as an allegation of misconduct against Nora, it was misinformed by the Staff Investigative Report that Ms. Spencer's receipt of the March 31, 2010 letter was ever in dispute.

e. Further affirmatively alleges that the March 31, 2010 letter enclosed a March 31, 2010 Notice of Motion and Motion for Summary Judgment, scheduling hearing for March 31, 2010, all of which were received by Ms. Spencer.

f. Affirmatively alleges that the issue is and always had been that summary judgment motions cannot be heard on less than 20 days' notice required by Wis. Stats. sec. 802.08.

g. Affirmatively alleges the allegation in ¶20 is made in violation of SCR 20:1.1 and 20:1.4 and Wis. Stats. sec. 802.05(2)(b) and (c).

h. Because Nora repeatedly attempted to explain the false implication of ¶20 to OLR, and OLR has failed to amend ¶20, ¶20 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

i. Affirmatively alleges that because Nora has repeatedly attempted to explain the false legal and factual implications of ¶20, ¶20 has been pleaded in violation of SCR 20:1.1, SCR

20:1.4, SCR 20:3.1(a)(2), and SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

21. Conditionally responds to ¶21 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. Nora reincorporates by reference, as if fully set forth herein, ¶20 in its entirety with respect to the two (2) letters dated February 17, 2011 and DENIES the allegation pertaining to the February 17, 2011 letter insofar as it implies that the notation that the February 17, 2011 letter sent to the Court was sent to and/or received by Ms. Spencer.

c. ADMITS that the letter filed with the Court dated February 17, 2011 contains a notation that a copy was supposed to be sent to Ms. Spencer.

d. ADMITS that the letter filed with the Court dated June 20, 2011, which was a Sunday, contains a notation that a copy was supposed to be sent to Ms. Spencer, but the enclosed Petition to Vacate the summary judgment order was dated June 17, 2011 and the Order granting the Petition was signed on June 21, 2011, which means that the letter and its enclosures were either transmitted by facsimile (there is no facsimile data displayed), mailed no later than June 19, 2011 (a Saturday, although U.S. mail delivery from Milwaukee to Wisconsin Rapids of a Saturday mailing would likely have not been accomplished until June 22, 2011), the letter is misdated, or

Judge Potter back-dated the Order (which is unlikely). Regardless, there has never been any dispute that Ms. Spencer received the “June 20, 2011” letter and its enclosure. The concern involves the fact that Judge Potter signed the Order on or about June 21, 2011, without notice and hearing being provided to Ms. Spencer.

e. Affirmatively alleges that OLR has failed to acknowledge or plead the fact that there are two letters dated February 17, 2011, which form the basis of the dispute regarding ex parte communications in an actual case.

f. Affirmatively alleges that the issues of ex parte communications she raised on behalf of Ms. Spencer which is that there are two (2) versions of a February 17, 2011 letter: one was sent to the Court and refers to an “affidavit issue” and one, sent to Ms. Spencer, which does not mention an “affidavit issue.”

g. Affirmatively alleges that one of the two (2) different versions of the February 17, 2011 letter was in the court record, which was located at the Clerk of Appellate Courts in the Tenney Building from January 2, 2015 until remittitur on July 27, 2016, because Nora moved for an order allowing the record to be supplemented, which was granted.

h. Affirmatively alleges, upon information and belief, both versions of the February 17, 2011 letter are a part of the record before the Seventh Circuit Court of Appeals in No. 13-2676.

i. Affirmatively alleges that the issue involving a “letter” dated June 20, 2011 is that an order was entered on June 21, 2011, without notice and hearing to Ms. Spencer.

j. Affirmatively alleges that Nora has a duty to correct the record of proceedings as an officer of the Court and to seek to obtain, protect and preserve her clients’ constitutional rights.

k. Because Nora repeatedly attempted to explain the false implication of ¶21 to OLR, and

OLR has failed to amend ¶21, ¶21 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

1. Affirmatively alleges that because Nora has repeatedly attempted to explain the false legal and factual implications of ¶21, ¶21 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), and SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

22. Conditionally responds to ¶22 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES ¶22.

c. Affirmatively alleges that Nora did not move to disqualify Judge Potter on June 28, 2012, but expressed concern about the entry of an Order, a copy of which she had not received or reviewed, moved for relief from the Order because it purported to impose a limitation that the list of issues was to be related to issues for summary judgment and reserved Ms. Spencer's right to move to disqualify Judge Potter or for other relief.

23. Conditionally responds to ¶23 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h.,

i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES ¶23 insofar as it implies that Nora knew that the Transcript of the May 23, 2012 hearing was missing page 3 when she received and reviewed it.

c. ADMITS ¶23 insofar as, at the end of October, 2012, Ms. Spencer was reviewing the record at the office of the Clerk of the Wood County Circuit Court and discovered that the original transcript filed in the court record had an additional page that had not been sent to Nora, who sent her version to Ms. Spencer, and which had not included a portion of Nora's statements to the Court and some of the Court's statements.

d. Affirmatively alleges that Nora's position with respect to the May 23, 2012 Transcript has been explained to OLR in detail on multiple occasions and is supported by the record.

e. Affirmatively alleges that the legal positions that Nora took on behalf of Spencer were taken in good faith, based on substantial evidence and were in accord with existing law.

f. Affirmatively alleges that OLR has knowingly or recklessly falsely alleged by implication that Nora knew that page 3 of the transcript was missing from her copy of the transcript when she received her copy of the transcript.

g. Affirmatively alleges that OLR knows or should know that the allegation in ¶23 is false because Nora did not know that the third page of the transcript was missing until Ms. Spencer inspected the court record in October, 2012 and informed Nora that the copy of the transcript of the May 23, 2012 hearing on file in the Wood County Clerk of Circuit Court contained a page which was not included in the transcript sent to Nora and sent page 3 of the transcript to Nora. Upon being thus informed, Nora corrected the record as required by SCR

20:3.3(a)(1) forthwith.

h. Affirmatively alleges that Nora has a duty to correct the record of proceedings as an officer of the Court and to seek to obtain, protect and preserve her clients' constitutional rights.

i. Affirmatively alleges that ¶23 is substantially false and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:1.4.

j. Because Nora repeatedly attempted to explain the false implication of ¶23 to OLR, and OLR has failed to amend ¶23, ¶23 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

k. Affirmatively alleges that because Nora has repeatedly attempted to explain the false legal and factual implications of ¶23, ¶23 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), and SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

24. Conditionally responds to ¶24 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. ADMITS ¶24 and affirmatively alleges that Nora's statements were true.

c. Further affirmatively alleges that identifying word variances in transcripts between what was spoken and what was recorded is not an ethics violation in any case and is the responsibility of counsel who ordered the transcript.

d. DENIES ¶24 to the extent that the preliminary review panel of the PRC determined cause to proceed on ¶24 as a fact or allegation of misconduct, because the conduct alleged is not a violation of the Wisconsin Code of Professional Conduct.

e. Affirmatively alleges that ¶24 is false by implication and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:1.4.

f. Because Nora repeatedly attempted to explain the false implication of ¶24 to OLR, and OLR has failed to amend ¶24, ¶24 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

g. Affirmatively alleges that because Nora has repeatedly attempted to explain the false legal and factual implications of ¶24, ¶24 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), and SCR 20:3.3(a)(1) and, because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

25. Conditionally responds to ¶25 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h.,

i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. ADMITS ¶25 and affirmatively alleges that Ms. Spencer had the right to a complete, accurate copy of the May 23, 2012 Transcript.

c. Further affirmatively alleges that Ms. Spencer instructed Nora to order a copy of the Transcript, in part, because she thought that Judge Potter had agreed to set the matter for trial and Nora did not recall Judge Potter making that statement.

d. The version of the transcript received by Nora which was missing a part of the record meant that the issue of whether or not Judge Potter stated that he would set the matter for trial after the Statement of Issues was filed and the response thereto was received, could not be resolved by recourse to an incomplete copy of the May 23, 2012 Transcript.

e. Affirmatively alleges that Judge Potter stated that he “blamed” Ms. Spencer for the problems in the case, but that statement was not recorded.

f. DENIES ¶25 to the extent that it implies that Ms. Spencer did not have the right to a complete and accurate, verbatim transcript of the May 23, 2012 proceedings.

g. DENIES ¶25 to the extent that the preliminary review panel of the PRC determined cause to proceed on ¶25 as a fact or allegation of misconduct, because the conduct alleged is not a violation of the Wisconsin Code of Professional Conduct.

h. DENIES ¶25 to the extent that the Investigative Report presented to the preliminary review panel of the PRC purports to recommend misconduct allegations against Nora based on its interpretation that the content of the missing page 3 was not important to Ms. Spencer’s case because OLR Investigative Staff is not competent to substitute its judgment for the judgment of

trial counsel who was present at the hearing.

i. DENIES ¶25 to the extent that the preliminary review panel of the PRC purports to have found cause to charge Nora with an ethics violation based on its interpretation that the content of the missing page 3 was not important to Ms. Spencer's case because the preliminary review panel is not qualified or empowered to substitute its judgment for the judgment of trial counsel who was present at the hearing.

j. DENIES ¶25 to the extent that counsel for OLR purports to persist in pleading the content of ¶25 in support of charging Nora with an ethics violation based on its interpretation that the content of the missing page 3 was not important not important to Ms. Spencer's case because OLR's counsel is not qualified or empowered to substitute his or her judgment for the judgment of trial counsel who was present at the hearing.

k. Affirmatively alleges that ¶25 is incompetently pleaded and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:1.4.

l. Because Nora repeatedly attempted to explain the false implication of ¶25 to OLR, and OLR has failed to amend ¶25, ¶25 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

26. Conditionally responds to ¶26 of OLR's Second Amended Complaint, DENIES, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g.,

h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. Nora reincorporates by reference, as if fully set forth herein: ¶25 a., b., c., d., e., f., g., h., i., j., k., and l.

c. Affirmatively alleges that an attorney has a duty to assure that a full and complete copy of a verbatim transcript ordered for use in a proceeding is accurate.

d. Affirmatively alleges that OLR's allegation in ¶26 falsely implies that Nora engaged in unethical conduct by requiring the production of a true and correct copy of a verbatim transcript in the Spencer foreclosure case.

e. Affirmatively alleges that a verbatim transcript was ordered, the complete transcript was necessary for Ms. Spencer's case and that there is no basis in fact or law for OLR to allege that it is unethical for an attorney to require the production of a true and correct copy of a verbatim transcript of proceedings.

f. Affirmatively alleges that ¶26 is substantially false and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:1.4.

g. Because Nora repeatedly attempted to explain the false implication of ¶26 to OLR, and OLR has failed to amend ¶26, ¶26 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c).

h. Affirmatively alleges that because Nora has repeatedly attempted to explain the false legal and factual implications of ¶26, ¶26 has been pleaded in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), and SCR 20:3.3(a)(1) and, because OLR has persisted in making false

allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

27. Conditionally responds to ¶27 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. Nora reincorporates by reference, as if fully set forth herein: ¶25 a., b., c., d., e., f., g., h., i., j., k., and l.

c. Nora reincorporates by reference, as if fully set forth herein: ¶26 a., b., c., d., e., f., g., h., i., and j.

d. DENIES ¶27.

e. Affirmatively alleges that Nora never claimed that the court clerk intentionally manipulated the court record.

f. Affirmatively alleges that Nora never claimed that Judge Potter *intentionally* manipulated the court record but that he was complicit in the manipulation of the proceedings to deny Sheila M. Spencer the opportunity to be heard in defense of her rights to her home.

g. A judge can be complicit in the manipulation of proceedings to deprive a party of his or her right to defend in an action by failing to assure that both parties are given a full and fair opportunity to be heard.

h. Counsel for some parties will attempt to gain control over the proceedings and a judge

must be ever mindful to protect the rights of both parties.

i. Failure to do so leads to the appearance of bias in favor of one party and prejudice against another in violation of SCR 60.04(4).

j. As an officer of the Supreme Court of Wisconsin and upon her oath, Nora has a duty to obtain, protect and preserve her clients' rights to due process which includes proceedings before an unbiased tribunal. Cf. *State v. Gudgeon*, 2006 WI 126, 724 N.W.2d 204 (2006);

k. The allegation in ¶27 is false, OLR knows or should know that it is false, and ¶27 is knowingly or recklessly falsely made.

l. The allegation in ¶27 is made in violation of SCR 20:3.3(a)(1) and, having been given opportunity to correct ¶27, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶27, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

m. Affirmatively alleges that because Nora has repeatedly attempted to explain the false legal and factual implications of ¶27, OLR has continued to plead ¶27 in violation of SCR 20:1.1, SCR 20:1.4, SCR 20:3.1(a)(2), and SCR 20:3.3(a)(1).

n. Because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

28. Conditionally responds to ¶28 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g.,

h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. Nora reincorporates by reference, as if fully set forth herein: ¶25 a., b., c., d., e., f., g., h., i., j., k., and l.

c. Nora reincorporates by reference, as if fully set forth herein: ¶26 a., b., c., d., e., f., g., h., i., and j.

d. Nora incorporates by reference, as if fully set forth herein: ¶27 a., b., c., d., e., f., g., h., i., j., k., l., m., and n.

e. ADMITS ¶28 insofar as on November 2, 2012, soon as humanly possible after she learned at the end of October, 2012 that page 3 was missing from her version of the May 23, 2012 Transcript and after she reviewed it, Nora determined that missing page 3 explained some of Ms. Spencer's concerns pertaining to the May 23, 2012 Transcript, and because she had already agreed that Judge Potter could continue to preside over the Spencer foreclosure case on August 8, 2012, the controversy concerning the other transcription errors was moot, and, as an officer of the Court, she was duty bound to report that page 3 of the transcript had been missing from the version of the Transcript sent to her in July, 2012 under SCR 20:3.3(a)(1).

f. Affirmatively alleges that Nora informed the Court that a missing page of the May 23, 2012 had been located and she corrected the record as required by SCR 20:3.3(a)(1) promptly, in early November, 2012.

g. DENIES ¶28 to the extent that the Investigative Report presented to the preliminary review panel of the PRC purports to recommend misconduct allegations against Nora based on her compliance with the Wisconsin Rules of Professional Conduct.

h. DENIES ¶28 to the extent that the preliminary review panel of the PRC purports to

have found cause to charge Nora with an ethics violation based on her compliance with the Wisconsin Rules of Professional Conduct.

i. DENIES ¶28 to the extent that counsel for OLR purports to persist in pleading the content of ¶28 in support of charging Nora with an ethics violation based on her compliance with the Wisconsin Rules of Professional Conduct.

j. Affirmatively alleges that ¶28 was incompetently, then recklessly and, finally, maliciously pleaded and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:3.1(a)(1), SCR 20:3.1(a)(2) and SCR 20:8.4 and in violation of Wis. Stats. sec. 895.044.

k. Because Nora repeatedly attempted to explain the false implication of ¶28 to OLR, and OLR has failed to amend ¶28, ¶28 has been pleaded in violation of SCR 20:1.1, SCR 20:3.1(a)(1), SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c) and in violation of Wis. Stats. sec. 895.044.

l. Because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

29. Conditionally responds to ¶29 of OLR's Second Amended Complaint, ADMITS, in part, DENIES, in part, and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h.,

i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. Nora reincorporates by reference, as if fully set forth herein: ¶25 a., b., c., d., e., f., g., h., i., and j.

c. Nora reincorporates by reference, as if fully set forth herein: ¶26 a., b., c., d., e., f., g., h., i., and j.

d. Nora incorporates by reference, as if fully set forth herein: ¶27 a., b., c., d., e., f., g., h., i., j., k., l., m., and n.

e. Nora reincorporates by reference, as if fully set forth herein: ¶28 a., b., c., d., e., f., g., h., i., j., k., and l.

f. DENIES ¶29 as materially misleading because it is out of chronological order, placing an event dated July 23, 2012 as occurring after the undated event described in ¶28.

g. ADMITS ¶29 in part only and DENIES ¶29 insofar as the allegation makes it appear that the disqualification request was based solely on the undisputed evidence of ex parte orders rather than what appeared to be bias in favor of the foreclosure claimant(s) and prejudice against Ms. Spencer, who had been self-represented until January, 2012, of which the ex parte orders were symptomatic.

h. Affirmatively alleges that the characterization of the written Motion is substantially inaccurate and is recklessly made because the Amended Motion filed on or about July 23, 2012 speaks for itself and it appears that OLR never read beyond the CCAP record or reviewed the actual July 23, 2012 Motion, once again violating SCR 20:1.1 (competence), SCR 20:1.4 (diligence) and, by making a recklessly false allegation because it has not competently

investigated the facts it has alleged and has not diligently examined the court record in an actual case, OLR is in violation of SCR 20:3.3(a)(2).

i. Affirmatively alleges that, having been given opportunity to correct ¶29 on multiple occasions, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶29, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

j. Affirmatively alleges that OLR has been repeatedly informed of the true facts, has failed to acknowledge the true facts even as to the order of events and is proceeding against Nora based on materially misleading allegations, including ¶29, in violation of SCR 20:1.1, SCR 20:1.4, SCR 3.1(a)(2), for what must now be seen as a violation of Wis. Stats. sec. 802.05(2)(c).

k. Affirmatively alleges that ¶29 was incompetently, then recklessly and, finally, maliciously pleaded and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:3.1(a)(1), SCR 20:3.1(a)(2) and SCR 20:8.4 and in violation of Wis. Stats. sec. 895.044.

l. Because Nora repeatedly attempted to explain the false implication of ¶29 to OLR, and OLR has failed to amend ¶29, ¶29 has been pleaded in violation of SCR 20:1.1, SCR 20:3.1(a)(1), SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c) and in violation of Wis. Stats. sec. 895.044.

m. Because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her

burden of proof.

30. Conditionally responds to ¶30 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. Nora reincorporates by reference, as if fully set forth herein: ¶25 a., b., c., d., e., f., g., h., i., and j.

c. Nora reincorporates by reference, as if fully set forth herein: ¶26 a., b., c., d., e., f., g., h., i., and j.

d. Nora incorporates by reference, as if fully set forth herein: ¶27 a., b., c., d., e., f., g., h., i., j., k., l., m., and n.

e. Nora reincorporates by reference, as if fully set forth herein: ¶28 a., b., c., d., e., f., g., h., i., and j.

f. Nora reincorporates by reference, as if fully set forth herein: ¶29 a., b., c., d., e., f., g., h., i., j., k., l., and m.

g. DENIES ¶30 as materially misleading because it is out of chronological order, placing an event dated July 23, 2012 as occurring after the undated event described in ¶28.

h. DENIES ¶30 and affirmatively alleges that the characterization of the written Motion is substantially inaccurate and is recklessly made because the Amended Motion filed on or about July 23, 2012 speaks for itself and it appears that OLR never read beyond the CCAP record or reviewed the actual July 23, 2012 Motion, once again violating SCR 20:1.1 (competence), SCR

20:1.4 (diligence) and, by making a recklessly false allegation because it has not competently investigated the facts it has alleged and has not diligently examined the court record in an actual case, OLR is in violation of SCR 20:3.3(a)(2).

i. Affirmatively alleges that, having been given opportunity to correct ¶30 on multiple occasions, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶29, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

j. Affirmatively alleges that OLR has been repeatedly informed of the true facts, has failed to acknowledge the true facts even as to the order of events and is proceeding against Nora based on materially misleading allegations, including ¶30, in violation of SCR 20:1.1, SCR 20:1.4, SCR 3.1(a)(2), for what must now be seen as a violation of Wis. Stats. sec. 802.05(2)(c).

k. Having been given opportunity to correct ¶30, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶30, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

l. Affirmatively alleges that ¶30 was incompetently, then recklessly and, finally, maliciously pleaded and has been pleaded against Nora four (4) times without any effort to conform the allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:3.1(a)(1), SCR 20:3.1(a)(2) and SCR 20:8.4 and is now violation of Wis. Stats. sec. 895.044.

m. Because Nora repeatedly attempted to explain the false implication of ¶30 to OLR, and OLR has failed to amend ¶30, ¶30 has been pleaded in violation of SCR 20:1.1, SCR 20:3.1(a)(1), SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c) and in

violation of Wis. Stats. sec. 895.044.

n. Because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

31. Conditionally responds to ¶31 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES ¶31 as materially misleading it refers to an undated order.

c. Affirmatively alleges that proceedings were held on August 8, 2012 at which Nora, on behalf of Ms. Spencer explained her concerns to Judge Potter.

d. Affirmatively alleges that the Transcript of the August 8, 2012 hearing is substantially accurate.

e. Affirmatively alleges that at the August 8, 2012 hearing, Nora was convinced that the concerns she had raised with respect to Ms. Spencer's notice and opportunity to be heard were unlikely to recur and she drafted the proposed order which allowed Judge Potter to continue to preside in the Spencer foreclosure case.

f. Affirmatively alleges that she sent the proposed order to counsel for the foreclosure claimant for his signature approval, because one of the case management tools proposed by Nora and ordered by the Court was that all proposed order would be approved as to form by the non-

drafting party.

g. Affirmatively alleges that on August 8, 2012 Nora essentially withdrew the Motion to Disqualify Judge Potter and drafted the order whereby Judge Potter would continue to preside in the Spencer matter.

h. Affirmatively alleges that Nora unfortunately did not propose a means for the parties to be served with the orders signed by the Court, so Nora never received a copy of the Order signed by Judge Potter which she drafted and sent via facsimile for opposing counsel's signature until it was produced by OLR in these proceedings.

i. Affirmatively alleges that because OLR had a copy of the signed Order at some point, OLR knew before Nora that the Order had been entered on or about September 7, 2012 and that the Order does not deny the Motion to Disqualify but provides, just as Nora wrote, that Judge Potter would not be disqualified from continuing to preside in the Spencer foreclosure case.

j. Affirmatively alleges that OLR has been repeatedly informed of the true facts, knew the ultimate fact before Nora knew it (the fact of entry of the September 7, 2012 Order) has failed to acknowledge the true facts even as to the order of events and is proceeding against Nora based on materially misleading allegations, including ¶31, in violation of SCR 20:1.1, SCR 20:1.4. SCR 3.1(a)(2), for what must now be seen as a violation of Wis. Stats. sec. 802.05(2)(c).

k. Having been given opportunity to correct ¶31, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶31, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

l. Affirmatively alleges that ¶31 has been incompetently, recklessly and maliciously pleaded and has been pleaded against Nora four (4) times without any effort to conform the

allegations to the actual record in the Spencer foreclosure, despite Nora providing detailed information concerning Ms. Spencer's actual legal position to OLR, in violation of SCR 20:1.1 and SCR 20:3.1(a)(1), SCR 20:3.1(a)(2) and SCR 20:8.4 and is now violation of Wis. Stats. sec. 895.044.

m. Because Nora repeatedly attempted to explain the false implication of ¶31 to OLR, and OLR has failed to amend ¶31, ¶31 has been pleaded in violation of SCR 20:1.1, SCR 20:3.1(a)(1), SCR 20:3.1(a)(2), SCR 20:3.3(a)(1) and Wis. Stats. sec. 802.05(2)(a) and (c) and in violation of Wis. Stats. sec. 895.044.

n. Because OLR has persisted in making false allegations, its conduct can only be explained as a violation of Wis. Stats. sec. 802.05(2)(a) for which Nora may recover her damages in an action under Wis. Stats. sec. 895.044 if she meets the higher standards for recovery and her burden of proof.

OLR's heading: U.S. District Court: Judge Crabb

Nora's heading: The Removal of Ms. Spencer's Foreclosure Case to the United States District Court for the Western District of Wisconsin

32. Conditionally responds to ¶32 of OLR's Second Amended Complaint, DENIES and affirmatively alleges:

a. Nora reincorporates by reference, as if fully set forth herein: ¶1 a., b., c., d., e., f., g., h., i., j., k., l., m., n., o., p., q., r., s., t., u., v., w., x., y., z., aa., bb., and cc., ¶6. a., b., c., d., e., f., g., h., i., j., k., l., m., n., o. and p. and ¶7.c., 8. b., c., d., e., s., t., u., v., w., x., y., and z.

b. DENIES that a Motion for Summary Judgment was pending on January 10, 2013 because counsel for the foreclosure claimant asked for leave to file a new or amended Motion for Summary Judgment on the record of the December 21, 2012 hearing on its Motion to Substitute

or Ratify under Wis. Stats. sec. 803.10(3).

c. DENIES that a “motion to remove the case to the U.S. District Court for the Western District of Wisconsin, U.S. District Court Judge Barbara A.(sic, middle initial B.) Crabb (Judge Crabb) presiding,” was ever filed and affirmatively alleges:

(1) The procedure for removal of state court civil actions, including class actions, to federal jurisdiction is generally governed by 28 U.S.C. sec. 1441-1453.

(2) Removal is effective upon the filing of a Notice of Removal and is not brought by motion.

(3) That OLR is pleading that federal jurisdiction is based on the filing of a motion, demonstrates that OLR has not read the voluminous responses Nora made to its purported inquiry in OLR Matter No. 2014MA1570, her two (2) Motions to Dismiss the November 30, 2015 Complaint and the January 19, 2016 Amended Complaint, or her proposed Complaint based on true facts filed in connection with the *Franks* Motion portion of the Motion to Dismiss.

(4) OLR’s ¶32 is made in violation of SCR 20:3.3(a)(1) and, having been given opportunity to correct ¶32, OLR is in violation of Wis. Stats. sec. 802.05(2)(c) and by persisting in making the false allegation in ¶32, OLR is in violation of Wis. Stats. sec. 802.05(2)(a).

33. Admits ¶33 of OLR’s Second Amended Complaint and affirmatively alleges:

a. On December 30, 2012, Nora and Spencer discovered evidence that the real party in interest in the foreclosure case filed in Wood County Circuit Court Case No. 2009CV000283 in the name of FNMC, a division of National City Bank of Indiana nka National City Bank was Freddie Mac.

b. Based on the discovery of that evidence, Nora removed Wood County Circuit Court Case No. 2009CV000283 to the United States District Court for the Western District of Wisconsin on January 10, 2013, within 30 days of discovery grounds for federal jurisdiction under 28 U.S.C. sec. 1349.

34. Denies ¶34 of OLR's Second Amended Complaint and affirmatively alleges:

a. The brief opposing remand, which OLR has either not read or is incapable of comprehending, speaks for itself.

b. Upon information and belief, OLR has not read Ms. Spencer's March 4, 2013 Brief in Response to the February 8, 2013 Motion for Remand, filed in the name of "PNC Bank, N.A., successor by merger to National City Bank, successor by merger to National City Bank of Indiana, a division of which was FNMC" and its failure to do so violates SCR 20:1.1 and 20:1.4. As a result of such failure, the allegation in ¶34 is a false characterization of Ms. Spencer's Opposition to Remand, which speaks for itself.

35. Denies ¶35 of OLR's Second Amended Complaint and affirmatively alleges:

a. March 25, 2013 Opinion granting the Motion for Remand speaks for itself.

b. OLR falsely claims the March 25, 2013 Opinion held that "federal jurisdiction did not attach to the Spencer case" in violation of SCR 20:3.3(a)(1).

c. The allegation in ¶35 violates SCR 20:1.1 (competence) because OLR apparently does not understand that federal jurisdiction immediately and automatically attaches to cases in which a Notice of Removal is filed pursuant to 28 U.S.C. sec. 1446(a).

d. The false pleading of ¶35 violates Wis. Stats. sec. 802.05(2)(b) and (c) because it is both knowingly or recklessly factually false and makes a legal contention not supported by

existing law or a good faith argument for the extension or modification of existing law.

e. Because Nora extensively responded to OLR's inquiry in OLR Matter No. 2014MA1570 and essentially provided an appellate brief on the issues of removal jurisdiction, her theory for the removal and the factual and legal bases for the removal, OLR's allegation in ¶35 indicates that OLR (1) violated SCR 20:1.1 (competence) by failing to comprehend the law of removal jurisdiction; and (2) failed to research the law of removal jurisdiction in violation of SCR 20:1.4.

f. Upon information and belief, OLR has not read the March 25, 2013 Opinion which it falsely claims held that "federal jurisdiction did not attach the Spencer case" or, if OLR read the Opinion, it did not comprehend it, in violation of violates SCR 20:1.1 (competence) and 20:1.4 (diligence).

g. The falsity of the allegation violates Wis. Stats. sec. 802.05(b).

36. Admits ¶36 of OLR's Second Amended Complaint.

37. Admits ¶37 of OLR's Second Amended Complaint and affirmatively alleges:

a. That the Motion for Reconsideration on the issue of attorney's fees is not frivolous because courts maintain continuing jurisdiction over the issue of attorneys fees after remand, and

b. The attorney's fees award was appealed to the Seventh Circuit Court of Appeals for abuse of discretion.

38. Denies ¶38 of OLR's Second Amended Complaint and affirmatively alleges:

a. Insofar as ¶38 states that the second motion for reconsideration was summarily denied.

b. The decision was entered on the second motion for reconsideration, which included further award of attorney's fees against Ms. Spencer for seeking relief from the first award of

attorney's fees, which was appealed as an alleged abuse of discretion.

c. At the very least, the only possible legal conclusion arising from the denial of the second motion for reconsideration which also awarded attorney's fees is that the motion was not summarily denied.

d. That OLR would allege that the second motion for reconsideration was summarily denied is consistent with the fictional narrative OLR constructed in these proceedings. While Nora enjoys good fiction as much as most, legal proceedings are not lawfully commenced by pleadings which are works of fiction and fictional pleadings violate SCR 20:3.1, Wis. Stats. sec. 802.05.

39. Lacks sufficient information to admit or deny ¶39 of OLR's Second Amended Complaint and accordingly denies ¶39 and puts OLR to its proof. Affirmatively alleges that the issue which concerned Nora was the retroactive removal of the federal court seal on Nora's medical records provided in connection with a request for accommodations under the Americans with Disabilities Act as Amended (ADAAA). Nora characterized Judge Crabb's conduct as a campaign of libel, from which Judge Crabb is immune in her judicial capacity. Nora sought to have the Seventh Circuit Court of Appeals allow her to appeal from the attorney's fees awarded on remand for "improvident removal" in her own name as co-appellant because she anticipated that OLR would try to finding that the second motion for reconsideration was "frivolous" in disciplinary proceedings because Nora #1 was pending, but Nora was primarily concerned with her duty to indemnify Ms. Spencer for taking her advice to remove the state court action in order to protect United States Treasury from what appeared to be an attempt of a rogue servicing agent to claim ownership of the mortgagee interest in Ms. Spencer's home. For avoidance of doubt,

Judge Barbara B. Crabb has not restrained herself, when addressing legal issues raised in Nora's cases, from making personal remarks about Nora's efforts to represent her clients which were unnecessary to the disposition of the issues involved in Nora's cases, were not based in facts in the record and appear to have been designed to cause her clients to have doubts about Nora's professional performance, contrary to the Standards for Professional Conduct Within the Seventh Circuit.⁴

40. Admits ¶40 of OLR's Second Amended Complaint.

41. Lacks sufficient knowledge and information to admit or deny ¶41 of OLR's Second Amended Complaint and, accordingly denies ¶41 and puts OLR to its proof, but affirmatively alleges that OLR had illegally come into possession of Nora's confidential medical records, filed under seal through Grievant Attorney David M. Potteiger (Potteiger) to OLR, whose staff investigator, Travis J. Stieren (Stieren) disseminated the confidential records widely without Nora's consent. Affirmatively alleges that although Nora was no longer medically incapacitated when Potteiger released the medical records to OLR which he obtained from an unprotected file in the office of BASS & MOGLOWSKY, S.C., a release to which Nora did not consent, Nora believed in good faith that the release of her confidential medical records without her consent was a consideration in determining cause to proceed in the disciplinary matter designated as Nora #1.

⁴ Violations of the *Professional Standards Within the Seventh Circuit* are manifest in the conduct of some of the Circuit Court Judges, who seem to thrive on frequently criticizing the advocates who appear before them. Because some of the Circuit Court judges do not hold themselves to the standards they have publicly set, it is regrettable but not surprising that the district court judges feel free to engage in ad hominem attacks on attorneys who advocate unpopular causes, contrary to ¶2 of the Court's Duties to Counsel. Few causes today are more unpopular than foreclosure defense, which threatens to expose a corrupt financial system. Nora's integrity and professionalism has been impugned for the cause she represents, contrary to ¶9 of the Professional Standards Within the Seventh Circuit.

42. Admits ¶42 of OLR's Second Amended Complaint insofar as the medical records were true when they were filed with the court on February 17, 2010, they were no longer true on December 8, 2010 when Potteiger released them to gain pecuniary advantage against Nora, who was his litigation opponent and Nora further affirmatively alleges that the unauthorized release of medical records filed under seal is an invasion of privacy, which is a species of libel.

43. Denies ¶43 of OLR's Second Amended Complaint and affirmatively alleges:

a. Judge Crabb is immune from suit for libel under the doctrine of judicial immunity and the issue of her decisional invasion of privacy was raised in the context of Nora's standing to appeal from the order granting attorney's fees on the remand order in the Spencer case and has, as expected, led to this very proceeding.

b. Whether an attorney has standing to appeal from nonfinancial or indirect financial injury arising from a district court decision is treated differently from circuit to circuit and constitutes a circuit court split, which may eventually be heard by the United States Supreme Court.

c. The best way to avoid attempts to appeal from factually unsupported and irrelevant damaging and injurious remarks directed against attorneys is for district court judges not to make them.

44. Lacks sufficient information to admit or deny ¶44 of OLR's Second Amended Complaint and, according denies the same and puts OLR to its proof.

45. Admits ¶45 and affirmatively alleges that, whereas Judge Crabb has judicial immunity from suit for libel for damaging personal remarks against attorneys and parties in the judicial decision-making process, she is not immune from suit for her nonjudicial acts.

46. Admits ¶46 of OLR's Second Amended Complaint and affirmatively alleges:

- a. Ms. Spencer had the right to appeal from the award of attorney's fees against her;
- b. Nora has an obligation to indemnify Ms. Spencer from the award of attorneys' fees and costs resulting from her decision to follow Nora's advice to file the Notice of Removal on January 10, 2013.

47. Admits ¶47 of OLR's Second Amended Complaint and affirmatively alleges:

- a. Nora planned to raise the issue of the circuit split by Petition to the United States Supreme Court but was unable to do so because of the intervening September 14, 2014 car accident injury.
- b. Nora had a good faith basis to seek a modification of Seventh Circuit precedent to conform to the law of the circuits who have acknowledged the standing of attorneys to appeal from decisions which caused them nonfinancial or indirect financial injury.

48. Admits ¶48 of OLR's Second Amended Complaint and affirmatively alleges that she appealed from the award of attorney's fees against Ms. Spencer to the Seventh Circuit because she has an obligation to indemnify Ms. Spencer from the award of attorneys' fees and costs resulting from her decision to follow Nora's advice to file the Notice of Removal on January 10, 2013 and planned (but for the intervening September 14, 2014 car accident injury) to seek a modification of Seventh Circuit precedent to conform to the law of the circuits who have acknowledged the standing of attorneys to appeal from decisions which caused them nonfinancial or indirect financial injury.

49. Admits ¶49(a) and (c) of OLR's Second Amended Complaint, in part, and only to the extent that a reasonable interpretation of the August 13, 2014 Decision of the Seventh Circuit

Court of Appeals in Case No. 13-2676 (the August 13, 2014 Decision) supports the characterization contained in ¶49(a) and ¶49(c), denies ¶49(b) and affirmatively alleges:

a. ¶49(b) is false and knowingly or recklessly falsely pleaded in the context of the August 13, 2014 Decision.

b. Once again, it appears that OLR has not read the August 13, 2014 Decision and is in violation of SCR 20:1.4 (diligence).

c. Because it appears that OLR has not read the August 13, 2014 Decision and is required, at a minimum, to read a decision upon which it relies in making an allegation in a formal Complaint, OLR is also in violation of SCR 20:1.1 (competence).

50. Admits ¶50 of OLR's Second Amended Complaint.

51. Admits, in part, and denies, in part, ¶51 of OLR's Second Amended Complaint and affirmatively alleges:

a. Denies ¶51(a) to the extent that it implies that the August 27, 2014 petition for rehearing en banc was filed in response to the August 20, 2014 Order to Show Cause and filing a petition for rehearing en banc is conventional appellate practice before the United States Courts of Appeal, which always involves the presentation of the issues of fact and law which were erroneously decided by the panel. OLR appears to violate SCR 20:1.1 (competence) by alleging ¶51(a) because any competent attorney should know what a Petition for Rehearing En Banc is in federal appellate practice or at least be able to read the rule which provides for it as required by SCR 20:1.1 (competence) and SCR 20:1.4(diligence).

b. Admits ¶51(b) in that Nora did file a partial response to the Order to Show Cause, which she was ordered to file on August 20, 2014.

c. Denies ¶51(c) insofar as it implies that the September 19, 2014 motion to stay mandate was filed in response to the August 20, 2014 Order to Show Cause because a Motion to Stay the Mandate pending consideration of whether or not an appeal should be taken to the United States Supreme Court is conventional appellate practice before the United States Courts of Appeal. OLR appears to violate SCR 20:1.1 (competence) by alleging ¶51(c) because any competent attorney should know what a Motion to Stay the Mandate is in federal appellate practice or at least be able to read the rule which provides for it as required by SCR 20:1.1 (competence) and SCR 20:1.4(diligence).

d. Admits ¶51(d) insofar as Nora filed a citation to additional authority on October 3, 2014, which is allowed under the Federal Rules of Appellate Procedure and the Rules of the Seventh Circuit Court of Appeals.

e. Denies ¶51(e) insofar as OLR states that the car accident injury was mild; Nora stated that she was suffering from a mild cognitive impairment as a result of a car accident injury and did not state that the injury itself was mild; Nora suffers from the car accident injury to this day. Affirmatively alleges that even with a mild cognitive impairment, an attorney is incapacitated from competent performance in litigation. Further affirmatively alleges that the request for postponement of the hearing on the Order to Show Cause was not a “response” to the Order to Show Cause and was made necessary by an intervening car accident injury.

52. Denies ¶52 of OLR’s Second Amended Complaint and puts OLR to its proof.

53. Admits ¶53 of OLR’s Second Amended Complaint.

54. ¶54 of OLR’s Second Amended Complaint is duplicative of ¶50(c) and Nora answers, again:

That the September 19, 2014 Motion to Stay the Mandate was not filed in response to the August 20, 2014 Order to Show Cause and is conventional appellate practice before the United States Courts of Appeal.

55. Denies ¶55 of OLR's Second Amended Complaint and affirmatively alleges:

a. The Order of October 2, 2014 entered by the Seventh Circuit Court of Appeals in No. 13-2676 was not final until time for moving for panel rehearing or for rehearing en banc expired, which, had Nora not been injured in a car accident on September 14, 2014, Nora would have sought.

b. The Order of October 2, 2014 became final on October 18, 2014, when Nora did not file a motion for panel rehearing or rehearing en banc under Fed. R. App. P. 40 and Seventh Circuit Local Rule 40.

c. It appears that OLR did not read the Federal Rules of Appellate Procedure when it alleged that the October 2, 2014 Order in Seventh Circuit Court of Appeals No. 2676 in violation of SCR 20:1.4 (diligence) insofar as OLR alleges that the Order entered on October 2, 2014 was a final Order .

56. Admits ¶56 of OLR's Second Amended Complaint and affirmatively alleges:

a. The Order of October 2, 2014 entered by the Seventh Circuit Court of Appeals in No. 13-2676 on October 2, 2014 did not involve the Order to Show Cause issued to Nora on August 20, 2014.

b. It appears that OLR has not read the record of the proceedings before the Seventh Circuit Court of Appeals in No. 2676 in violation of SCR 20:1.4 (diligence) because OLR falsely alleged at ¶49(b) that an Order sanctioning Nora was entered on August 13, 2014 and in ¶56, OLR alleges that the yet-to-be final Order of October 2, 2014 "was silent on the issue of whether

it would issue any additional sanction against Nora.”

c. Affirmatively alleges that the Order to Show Cause hearing was not scheduled to be heard until October 28, 2014 and it was not possible that any sanctions would be issued against Nora, initial or additional, until on or after that date.

d. OLR’s allegation in ¶56 was pleaded in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence) and is a misrepresentation of fact in violation of SCR 20:3.3(a)(2) which OLR knows or should know to be false.

57. Admits ¶57 of OLR’s Second Amended Complaint and affirmatively alleges that there is nothing unethical about submitting additional authority to an appellate court, when pertinent new law becomes available after an issue is submitted to the Court.

58. Admits ¶58 of OLR’s Second Amended Complaint.

59. Admits ¶59 of OLR’s Second Amended Complaint, to the extent that it is a verbatim quotation of a portion of the February 11, 2015 Decision of the Seventh Circuit Court of Appeals resulting from the October 28, 2014 hearing on the August 20, 2014 Order to Show Cause and affirmatively alleges:

a. Nothing in the February 11, 2015 Decision supports an allegation that Nora knowingly or recklessly violated SCR 20:3.1(a) or (b) by removing the state court foreclosure action and there is nothing in the verbatim quotation which covers more than 2 pages of single-spaced text which supports a finding that Nora violated SCR 20:3.1(c).

b. Nothing in the February 11, 2015 Decision supports an allegation that Nora violated SCR 20:3.2 by appealing from the awards of attorneys’ fees in Seventh Circuit Case No. 13-2676.

c. It appears that OLR cannot find any facts or law appearing in the verbatim text starting at the bottom quarter page of page 10 of OLR's Second Amended Complaint and covering the entire pages 11 and 12 of OLR's Second Amended Complaint to support its allegation of any ethics violation whatsoever because nothing in the verbatim quotation covering more than 2 pages, in single-spaced format supports a finding of any violation of the Wisconsin Rules of Professional Conduct.

d. Nora made no argument to the district court following the March 25, 2013 Order for Remand to change the existing law which deprives the district court of jurisdiction to reconsider a remand order because she never sought reconsideration of the remand order. She sought reconsideration of the award of attorney's fees, over which the Court had continuing jurisdiction.

60. Admits ¶60 of OLR's Second Amended Complaint, to the extent that it is a verbatim quotation of a portion of the February 11, 2015 Decision of the Seventh Circuit Court of Appeals in No. 2676 resulting from the October 28, 2014 hearing on the August 20, 2014 Order to Show Cause.

COUNT ONE

61. Denies ¶61 of OLR's Second Amended Complaint and affirmatively alleges that OLR has failed to support ¶61 with any factual allegations to support the several conclusions of law contained therein, to wit:

a. There is no factual basis for the allegations in ¶¶1-60, above, except as specifically admitted by Nora except possibly where she lacks sufficient knowledge to form a belief as to the truth of the matters asserted therein.

b. Nora's affirmative allegations are exculpatory, have long been known to OLR and

were first incompetently, then recklessly and, finally, maliciously ignored by OLR.

c. The superficial amendments to ¶6 and ¶19, along with the amendment to ¶1, which the Referee was not even asked to approve for filing (and the Referee's approval is ultra vires in any event) not only fail to "fix" the "patently erroneous" allegations but reveal the malice of OLR in continuing to proceed on facts and allegations of misconduct allegations against Nora for which the preliminary review panel of the PRC did not find cause to proceed.

d. As to Count One specifically, OLR's contention that Nora knew or should have known that there was no colorable basis for federal jurisdiction when it was discovered that Freddie Mac was the real party in interest claiming to own Ms. Spencer's discharged Note and the unassigned mortgagee interest on her home as required by SCR 20:3.1(a)(1), is without a basis in fact when 28 U.S.C. sec. 1349 establishes federal jurisdiction in cases in which the real party in interest is a federally-chartered corporation in which the United States owns more than a 50% interest, which Freddie Mac was and still is.

e. As to Count One specifically, OLR's contention that Nora knowingly asserted a factual position which was frivolous, when it is was discovered and is now undisputed that the party claiming the beneficial interest in the unassigned mortgage granted in the name of FNMC, a division of National City Bank of Indiana (a nonexistent entity) was indeed Freddie Mac so that Nora advanced a position based on evidence of a true fact which is now undisputed, and Nora could not have violated SCR 20:3.1(a)(2).

f. As to Count One specifically, OLR's contention that it was obvious to Nora that the removal action would serve merely to harass or maliciously injure another, when, in fact, Nora had a good faith basis for her belief that the January 10, 2013 removal to federal court was

justified by the December 30, 2012 discovery that Freddie Mac, a federally-chartered corporation in which more than 50% of the capital stock was (and is) owned by the United States, which was (and is) in the conservatorship of the Federal Housing Finance Agency (FHFA), and whose profits are paid to the United States Treasury, was the real party in interest in the Spencer case, which had been concealed by false pleadings by counsel for the falsely identified plaintiff, who claimed to own the (discharged) Note and unassigned Mortgage, when it did not. OLR fails to identify who Nora intended to harass or maliciously injure by the removal action.

g. No violation of SCR 20:3.1(a)(3) is supported by any facts, whether true or false, in ¶¶1-60 of the Second Amended Complaint.

h. The proceedings on OLR's Second Amended Complaint are ultra vires in violation of SCR 22.11(2).

COUNT TWO

62. Denies ¶62 of OLR's Second Amended Complaint and affirmatively alleges:

a. There is no factual basis for the allegations in ¶¶1-60, above, except as specifically admitted by Nora except possibly where she lacks sufficient knowledge to form a belief as to the truth of the matters asserted therein.

b. Nora's affirmative allegations are exculpatory, have long been known to OLR and were first incompetently, then recklessly and, finally, maliciously ignored by OLR.

c. The superficial amendments to ¶6 and ¶19, along with the amendment to ¶1, which the Referee was not even asked to approve for filing (and the Referee's approval is ultra vires in any event) not only fail to "fix" the "patently erroneous" allegations but reveal the malice of OLR in continuing to proceed on facts and allegations of misconduct allegations against Nora for

which the preliminary review panel of the PRC did not find cause to proceed.

d. There is no evidence that the appeal of the attorney's fees award in any way delayed the Spencer state court litigation, the record of which was not reviewed by OLR prior to presenting the Investigative Report to the preliminary review panel of the PRC.

e. The appeal was from an order granting attorney's fees to a party which has now been shown to have filed false pleadings against Ms. Spencer, because the Wisconsin Court of Appeals had to disregard its false claim of ownership in order to affirm the foreclosure judgment on appeal.

f. Appeals from awards of attorneys' fees delay nothing unless a stay is sought and granted (which was not sought).

g. Nora appealed on her own behalf as well as Ms. Spencer because she has a duty to indemnify her client from the award of attorneys' fees resulting from her advice to remove the case to federal district court in order to protect Freddie Mac before she knew that Freddie Mac instructs its servicing agents to foreclose in their own names and to falsely claim that they are the holders of the Notes, when the servicers are mere custodians.

h. The Seventh Circuit Court of Appeals' precedents which hold that attorneys who are injured by sanctions orders that do not involve a direct order for payment of money is in conflict with the decisions of other circuits, which allow such appeals and Nora had a good faith argument to extend or modify existing Seventh Circuit law to allow attorneys to appeal from district court rulings from nonfinancial or indirect financial injuries which can result in the very kind of proceeding which is now before this Court.

i. It was the false plaintiff in the Spencer case which was removed to federal jurisdiction

which delayed the proceedings, not Ms. Spencer:

(1) Nora completely and thoroughly analyzed the delay in the Spencer state court case in her August 5, 2016 Brief in response to the Orders for Briefs entered by Judge William M. Conley on July 24, 2015 (Docs. 5 and 6). As of August 5, 2015 when the calculations were made in order to respond to Judge Conley's Orders, the state court foreclosure case had been pending for 2523 days of which 416 days (or 16.49%) of the delay the in state court case was the result of Ms. Spencer seeking relief in bankruptcy court, seeking 90 days to perform discovery (which was not undertaken by Ms. Spencer's former counsel, who was then relieved of his responsibility for her representation) and removing the case to the United States District Court for the Western District of Wisconsin and that, otherwise, the falsely identified "plaintiff" had unfettered access to the state court for pursuit of its false action against Ms. Spencer. The majority of the delay was attributed to the "plaintiff" making false allegations in its Complaint and Amended Complaint, supporting its Complaint and then its Amended Complaint with an UNENDORSED copy of the Note Ms. Spencer made payable to "FNMC, a division of National City Bank of Indiana," which was later alleged to have been ENDORSED in blank more than three and one half years (3 ½ years) earlier and supporting its first motion for summary judgment with a falsely sworn affidavit, which was concealed from Ms. Spencer by the creation of two (2) different letters dated February 17, 2011 (one sent to the Court referring to an "affidavit issue", falsely cc'd to Ms. Spencer, and the other sent to Ms. Spencer and not to the Court which does not refer to an affidavit issue).

(2) By refusing to plead its capacity as servicing agent the "plaintiff" delayed the case by 203 days after the appearance of new counsel for Ms. Spencer. The "plaintiff" brought 2 false

motions for summary judgment based on an UNENDORSED copy of the Note, re-opened the case and vacated the first falsely acquired summary judgment without notice and opportunity to be heard being provided to Ms. Spencer (delaying the case for an additional almost one and one half (1 ½ years), requesting and receiving additional time to file a third motion for summary judgment, thereafter delaying the filing of the third motion for summary judgment after the February 25, 2014 dismissal of Ms. Spencer's Chapter 13 case (WIWB Case No. 13-15076) until September 13, 2014 (197 days).

(3) The appeal from the award of attorneys' fees to the false plaintiff delayed nothing.

j. No violation of SCR 20:3.1(a)(3) is supported by any facts, whether true or false, in ¶¶1-61 of the Second Amended Complaint.

k. The proceedings on OLR's Second Amended Complaint are ultra vires in violation of SCR 22.11(2).

COUNT THREE

63. Denies ¶63 of OLR's Second Amended Complaint and affirmatively alleges:

a. There is no factual basis for the allegations in ¶¶1-60, above, except as specifically admitted by Nora except possibly where she lacks sufficient knowledge to form a belief as to the truth of the matters asserted therein.

b. Nora's affirmative allegations are exculpatory, have long been known to OLR and were first incompetently, then recklessly and, finally, maliciously ignored by OLR.

c. The superficial amendments to ¶6 and ¶19, along with the amendment to ¶1, which the Referee was not even asked to approve for filing (and the Referee's approval is ultra vires in any event) not only fail to "fix" the "patently erroneous" allegations but reveal the malice of OLR

in continuing to proceed on facts and allegations of misconduct allegations against Nora for which the preliminary review panel of the PRC did not find cause to proceed.

d. There is not one fact, true or false, alleged by OLR, which supports the conclusion that Nora engaged an “ongoing pattern of conduct to harass other parties and judicial officers and delay the proceedings” (in a state court case which OLR did not even correctly identify until May 26, 2016).

e. The conclusory allegation at ¶43, is a conclusion of law, unsupported by any true facts.

f. OLR fails to allege any true facts to support its claim that Nora harassed “other parties and judicial officers,” except in the headings provided by OLR, which are not operational factual allegations and, again, the conclusory allegation at ¶43. The unidentified “parties” which OLR fails to name would, by implication, include the falsely identified entities appearing in Wood County Circuit Court case and their affiliates and agents, but would also include their attorneys who are not named by OLR but likely include Attorney William N. Foshag (Foshag) of Gray & Associates, LLP, who filed the false Complaint alleging the false plaintiff is the owner and holder of Ms. Spencer’s Note and Mortgage and his Co-Grievant Potteiger in Nora #1, who admits that he represents an entity, Fidelity National Financial which, through its agents and subsidiaries, operates one of the most prolific document forgery services in the nation.

g. There is no factual basis in the Second Amended Complaint, true or false, for the conclusion in OLR’s ¶63 and Nora affirmatively defends:

(1) Nora has the utmost respect for the *Constitution of the United States*, the *Wisconsin Constitution* and the *Minnesota Constitution*, where she is admitted to practice, the constitutionally valid statutes and rules of courts of the United States and the several states and

the Rule of Law. She is not without flaws as a human being but strives diligently to examine her professional conduct and to avoid *unnecessary* harm to any other human being.

(2) Nora respects judicial officers when they are performing their appointed and elected duties constitutionally.

(3) Nora believes that no one is above the law and that corporations, being creatures of statute, are subject to human governance and must be held accountable when they cause harm to human beings.

(4) There are no facts alleged true or false which support a conclusion that Nora has counseled or maintained any suit or proceeding which appears to her to be unjust nor any allegation that she has pursued an unjust defense for Ms. Spencer, whose current mortgage payment was refused by National City Bank to create the appearance of default, and who had put her entire life's earning into her home in a downpayment of almost \$100,000.00 (more than one third of the market value of her home) and 3 times the amount the false plaintiff is guaranteed to recover as servicing advances from Freddie Mac.

h. No violation of SCR 20:3.1(a)(3) is supported by any facts, whether true or false, in ¶¶1-61 of the Second Amended Complaint.

i. The proceedings on OLR's Second Amended Complaint are ultra vires in violation of SCR 22.11(2).

**Regarding the Rinaldi Matter
OLR Matter No. 2015MA614
Counts Four-Five**

64. Denies ¶64 of OLR's Second Amended Complaint insofar as it alleges that Nora represented the Rinaldis in their state foreclosure actions, admits that Nora represented the

Rinaldis Case No. 13-CV-336 into which Case No. 13-CV-643 was consolidated until April 9, 2014 and for most of their appeal to the Seventh Circuit Court of Appeals in Case No. 13-13865 and for part of their appeal in Case No. 14-1887, including at oral argument before the Seventh Circuit Court of Appeals.

65. Denies ¶65 of OLR's Second Amended Complaint and affirmatively alleges:

- a. There is no factual basis for the allegations in ¶¶1-60, above, except as specifically admitted by Nora except possibly where she lacks sufficient knowledge to form a belief as to the truth of the matters asserted therein.
- b. Nora's affirmative allegations are exculpatory, have long been known to OLR and were first incompetently, then recklessly and, finally, maliciously ignored by OLR.
- c. The superficial amendments to ¶6 and ¶19, along with the amendment to ¶1, which the Referee was not even asked to approve for filing (and the Referee's approval is ultra vires in any event) not only fail to "fix" the "patently erroneous" allegations but reveal the malice of OLR in continuing to proceed on facts and allegations of misconduct allegations against Nora for which the preliminary review panel of the PRC did not find cause to proceed.
- d. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.
- e. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).
- f. The only explanation for OLR's persistent pursuit of the Second Amended Complaint

on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

66. Denies ¶66 of OLR's Second Amended Complaint.

a. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

b. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

c. The only explanation for OLR's persistent pursuit of the Second Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

67. Denies ¶67 of OLR's Second Amended Complaint, and affirmatively alleges:

a. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

b. OLR has falsely charged Nora with representing the Rinaldis in a state court

foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

c. The only explanation for OLR's persistent pursuit of the Second Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008.

68. Denies ¶¶ 68 of OLR's Second Amended Complaint insofar as it implies the truth of the allegations at ¶¶ 64-67, on the further grounds set forth below, and affirmatively alleges:

a. On January 26, 2010 an Order for Judgment was entered on false pleadings, brought in the name of a nonexistent entity, claiming ownership of a Note made payable to Wells Fargo Bank, N.A. (Wells Fargo Bank), attached to the Complaint as a "true" copy, which was not endorsed, and on a Complaint to which an unassigned Mortgage conveying a mortgagee interest to Wells Fargo Bank was also attached.

b. On February 2, 2010, Judgment of Foreclosure was entered against the Rinaldis and in favor of HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2, a nonexistent entity.

c. The Rinaldis brought a motion to vacate judgment which was pending at the time that the attorneys representing Wells Fargo Bank, pretending to be representing HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity

Asset-Backed Certificates, Series 2005-2, a nonexistent entity, petitioned the state court to re-open the judgment and dismiss the false Complaint.

d. The Order for Judgment and the Judgment entered in the state court foreclosure case was re-opened and the state court foreclosure action against the Rinaldis was dismissed on petition of the pretended plaintiff in that action on January 18, 2011.

e. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

f. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

g. The only explanation for OLR's persistent pursuit of the Second Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008.

69. Denies ¶69 of OLR's Second Amended Complaint and affirmatively alleges:

a. The Rinaldis were not heard on the unilateral petition of the attorneys representing Wells Fargo Bank to re-open the judgment of foreclosure and dismiss the case, based on a Loan Modification Agreement, signed by Roger Rinaldi, which was never returned executed by any other party to the agreement.

b. The only time a copy of the purported Loan Modification Agreement ever appeared was in Rinaldis' bankruptcy case in Eastern District of Wisconsin Case No. 11-35689. The purported Loan Modification Agreement appeared to have been executed by an employee of Wells Fargo Bank.

c. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the state court foreclosure action to which OLR pretends to refer.

d. OLR has falsely charged Nora with representing the Rinaldis in a state court foreclosure action for a second time in these proceedings and has done so in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

e. The only explanation for OLR's persistent pursuit of the Second Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

70. Denies ¶70 of OLR's Second Amended Complaint, except insofar as it alleges that Nora entered her appearance for the Rinaldis after the action was filed pro se as co-counsel with Attorney Kim A. Lewis of Twin Lakes, Wisconsin, in a second state court action and affirmatively alleges:

a. The Loan Modification Agreement was never "finalized," according to its terms, which required a copy of the Agreement to be returned to Roger Rinaldi by mail.

b. The Rinaldis did not assert counterclaims against the parties named in the second state court action in the foreclosure action, nor could they, because the parties named in the second state court action were not parties to the foreclosure action.

c. The Rinaldis could not have “reasserted their counterclaims” against the same parties in the second action because the parties defendant in the second action were not before the court in the foreclosure action.

d. The Rinaldis, pro se, did not know that they could file a Third-Party Complaint against the parties named in the second state court action and apparently OLR and whoever is advising OLR in these proceedings does not know that counterclaims may only be brought against the plaintiff.

e. ¶70 is evidence of selective and vindictive prosecution of Nora because Attorney Lewis is not mentioned as being co-counsel with Nora for the Rinaldis and was never contacted by OLR with respect to the positions taken by Attorneys Lewis and Nora in the second state court action.

f. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the either state court foreclosure action or the second state court action which the Rinaldis commenced pro se, to which OLR pretends to refer.

g . The falsity of this allegation is in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

h. The only explanation for OLR’s persistent pursuit of the Second Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to

conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

71. Denies ¶71 of OLR's Second Amended Complaint insofar as it implies that the defendants in the second state court action initially moved to dismiss with prejudice and affirmatively allege:

a. The defendants initially moved for dismissal of the action for lack of personal jurisdiction, based on insufficient service of process.

b. On the Rinaldis' behalf, Attorneys Nora and Lewis agreed to dismissal of the action for insufficient service of process, which is not an adjudication on the merits.

c. After the Rinaldis agreed to dismissal for insufficient service of process, the defendants moved to dismiss the action with prejudice.

d. The action was eventually dismissed *without prejudice* on January 29, 2015, just as Attorneys Nora and Lewis had offered to do in September, 2011.

e. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the either state court foreclosure action or the second state court action which the Rinaldis commenced pro se, to which OLR pretends to refer.

f. The falsity of this allegation is in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

g. The only explanation for OLR's persistent pursuit of the Second Amended Complaint

on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12(3), by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

72. Denies ¶72 of OLR's Second Amended Complaint insofar as it implies that it is unethical for anyone to file a bankruptcy proceeding "before a state court could rule" on any matter and affirmatively alleges:

a. ¶72 is evidence of OLR's selective and vindictive prosecution of Nora because it does not identify the attorney who filed the Rinaldis' bankruptcy case "before the state court could rule" and if such an allegation constitutes unethical conduct (it does not) the attorney who filed the Rinaldis' bankruptcy case on October 14, 2011 as Case No. 11-35689 would have to be identified.

b. Nora was substituted as counsel for the Rinaldis' case in WIEB Case No. 11-35689 on November 18, 2011 in order to respond to the Motion for Relief from the Automatic Stay filed on November 4, 2011 in which a second version of a copy of the Note suddenly appeared to have been endorsed and was not the "true" copy of the Note attached to the Complaint in the state court foreclosure case (which had been dismissed) and an unrecorded AOM which was not attached to the state court foreclosure and pre-dated the first recorded AOM were produced as Exhibits.

c. The second state court action was dismissed without prejudice for insufficient service of process on January 29, 2015, just as Attorneys Lewis and Nora proposed to do in September,

2011.

d. The falsity of this allegation demonstrates that OLR has not reviewed the essential documents pertaining to the either state court foreclosure action, the second state court action which the Rinaldis commenced pro se, or WIEB Case No. 11-35689 to which OLR pretends to refer.

e. The falsity of this allegation is in violation of SCR 20:1.1 (competence), SCR 20:1.4 (diligence), has now done so knowingly or recklessly in violation of SCR 20:3.3(a)(1) and is in violation of Wis. Stats. sec. 802.05(1)(b).

f. The only explanation for OLR's persistent pursuit of the Second Amended Complaint on false factual allegations is that OLR is harassing Nora and/or is maliciously injuring Nora to conceal the violations of Wis. Stats. sec. 946.12, by OLR and the Wisconsin licensed lawyers representing mortgage servicers on false pleadings, based on false documents, supported by falsely sworn affidavits, who have been shielded by OLR's wilful ignorance and conscious avoidance of their misconduct since at least 2008, in violation of Wis. Stats. sec. 802.05(a).

73. Denies ¶73 of OLR's Second Amended Complaint and affirmatively alleges:

a. "HSBC" did not file a Proof of Claim in the Rinaldis' bankruptcy case, WIEB Case No. 11-35689.

b. Wells Fargo Bank filed Proof of Claim #6 in Case No. 11-35689 on behalf of an entity identified as HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2, an entity which does not exist as a matter of law because a series of Certificates of Interest in a Real Estate Mortgage Conduit (REMIC) Trust has no de jure existence; if HSBC Bank USA,

N.A. is a Trustee, it must be the Trustee of a Trust and not of a Certificate Series.

c. HSBC is not the holder of the June 10, 2005 Note made payable to Wells Fargo Bank.

d. An endorsement suddenly appeared on the Note for the first time in the Rinaldis bankruptcy WIEB Case No. 11-35689 on November 4, 2011 at Doc. 7, which appears to be an integrated stamp displaying the signature of Joan M. Mills, in the purported capacity of Vice President, Wells Fargo Bank, N.A.

e. Joan M. Mills was never a Vice President of Wells Fargo Bank.

74. Denies, in part, and admits, in part, ¶74 of OLR's Second Amended Complaint and affirmatively alleges:

a. Denies that Nora, on behalf of the Rinaldis, filed adversary claims against the parties that the Rinaldis had "counter-claimed against in the state action."

b. Admits ¶74 to the extent that Nora objected to the Proof of Claim brought by Wells Fargo Bank in the name of HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2, an entity which does not exist.

c. Nora was ordered to file the Adversary Complaint by the bankruptcy court judge in Case No. 11-35689.

d. At the time Nora filed the adversary proceeding, under order of the bankruptcy court, Nora was informed and believed that the name of the entity against whom the Rinaldis were entitled to proceed on their claims was the Wells Fargo Home Equity Trust 2005-2 because a Trust with the stock ticker identification of WFHET 2005-2 had been identified.

e. Nora later learned there were two similarly named entities ("Trusts") reported as

existing to the Securities and Exchange Commission (SEC): the Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust (WFHET 2005-2) and the Wells Fargo Mortgage Backed Securities 2005-2 Trust and that the entity named as a defendant, Wells Fargo Home Equity Trust 2005-2, does not exist.

f. Counsel for Wells Fargo Bank, Attorney Stephanie Dykeman, appeared on behalf of the Wells Fargo Home Equity Trust 2005-2 (WFHET 2005-2), a nonexistent entity, in the adversary proceeding filed as Adv. No. 12-ap-2412 and she also appeared in an adversary proceeding filed by the Rinaldis in their second bankruptcy case (Case No. 15-22937) on April 29, 2015 as Adversary No. 15-02186, claiming to represent HSBC Bank USA, N.A. as Trustee for the Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust (WFHET 2005-2), a “similarly named entity,” which does, in fact, exist.

g. A plaintiff might not know the exact, correct name of a defendant at the time an action is filed, despite diligent efforts to identify a party liable for the claim, but attorneys making appearances for parties must know the identities of the parties for whom they appear.

h. At no time during Adv. No. 12-ap-2412 did counsel for Wells Fargo Bank seek dismissal of the adversary proceeding on the basis that the entity being sued by the Rinaldis did not exist.

i. In her Decision of February 22, 2013 at page 16, Judge Susan V. Kelley held that “any similarly named entity (‘the Trust’)” had standing to proceed against the Rinaldis because “defects in the transfer of the Note to the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust (or any similarly named entity) (the ‘Trust’) do not render the Mortgage unenforceable, the Note invalid or the proof of claim fraudulent.”

j. There is no Trust in existence named the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust.

k. The Note and Mortgage had never been transferred or conveyed into any Real Estate Mortgage Investment Conduit (REMIC) Trust, prior to the closing date of either of the trusts reported to the SEC as having an existence: Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust (stock ticker WFHET 2005-2), which names HSBC Bank USA, N.A. as Trustee, and the Wells Fargo Mortgage Backed Securities 2005-2 Trust, which names Wachovia Bank, N.A. (which subsequently merged into Wells Fargo Bank) as Trustee, for which the stock ticker number, if any, is unknown at the present time.

l. Grievant in Nora #1, Attorney William N. Foshag, filed the Complaint entitled *HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2 v. Rinaldi, et al.*, Kenosha County Circuit Court Case No. 2009CV000353 on behalf of an entity which does not exist, to wit a Certificate Series issued by a nonexistent Trust which would presumably be named the Wells Fargo Asset Securities Corporation Home Equity 2005-2 Trust, if it existed, but no record of such a trust has been located in more than 7 years.

m. Grievant in Nora #1, Attorney William N. Foshag, alleged at ¶1 of the foreclosure Complaint entitled *HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2*, an entity which does not exist, is the current owner and holder of the Note and Mortgage at issue, writing:

1. The plaintiff is the current owner and holder of a certain note and recorded mortgage on real estate located in this county, true copies of which are attached hereto as Exhibits A and B and incorporated by reference.

Exhibit A attached to the Complaint as a “true” copy is UNENDORSED Note payable to Wells Fargo Bank and Exhibit B attached to the Complaint is a copy of a Mortgage granted to Wells Fargo Bank, for which no Assignment of Mortgage (AOM) was attached to the Complaint or recorded with the Kenosha County Register of Deeds.

n. The Complaint against the Rinaldis is materially false in that it alleges that a nonexistent entity is the owner of the Note and that the copy of the UNENDORSED Note was a “true” copy, which means that the nonexistent plaintiff, in addition to its nonexistence, could not be the “owner” of an UNENDORSED Note made payable to Wells Fargo Bank or the “owner” of an UNASSIGNED Mortgage, granted to Wells Fargo Bank.

75. Denies ¶75 of OLR’s Second Amended Complaint and affirmatively alleges:

a. Judge Kelley did not find in favor of “HSBC’s proof of claim.”

b. Judge Kelley’s Decision of February 22, 2013 allowed Proof of Claim #6, filed by Attorney Brian D. Perhach of Gray & Associates, LLP on behalf of the nonexistent entity identified by Attorney Perhach as HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2, which is not the same nonexistent entity as the nonexistent entity in whose name the state court foreclosure action had been commenced.

c. Judge Kelley apparently felt compelled to rename the entity in whose name Proof of Claim #6 would be allowed to be [HSBC as Trustee for] the Wells Fargo Asset Securities Corporation Home Equity Asset-backed Certificates Series 2005-2 Trust or “any similarly named entity (the ‘Trust’)” because she saw the defect in the identification of HSBC Bank as Trustee for a series of Certificates of Interest. See Judge Kelley’s Decision of February 22, 2013, page 16.

d. Judge Kelley did not recommend “denial” of “*Nora’s* adversarial claims” because Nora was not a party to the adversary proceeding; Judge Kelley recommended **dismissal** of the Rinaldis’ Adversary Complaint for the reasons stated in her February 22, 2013 Decision and Order.

e. Judge Kelley decided that the Rinaldis lacked standing to challenge the suddenly appearing endorsement in blank in the integrated signature stamp of Joan M. Mills, Vice President of Wells Fargo Bank, N.A., which had not been attached to the Complaint in the state court foreclosure action, based on Wis. Stats. sec. 403.308(1).

f. Judge Kelley erroneously held that Wis. Stats. sec. 403.308(1) created an irrebuttable presumption that the endorsement was valid in order to deny the Rinaldis standing to object to the false Proof of Claim #6 on their allegation that the endorsement was a forgery,⁵ which they were prepared to prove at the evidentiary hearing to which they were entitled under the Fifth Amendment to the *Constitution of the United States*.

g. The issue of the Rinaldis’ “lack of standing” was raised sua sponte by Judge Kelley and was never raised by the Adversary Defendants or briefed by any party. There is nothing in Wis. Stats. sec. 403.308(1) that creates an *irrebuttable* presumption of the validity of an endorsement. Wis. Stats. sec. 403.308(1) simply shifts the burden of proof on a challenge to the validity of the endorsement to the maker of the Note, a burden which the Rinaldis were prepared to meet at the evidentiary hearing to which they were entitled under the Fifth Amendment to the *Constitution of the United States* before a claim to their Homestead could be made on the basis of

⁵ At the pleadings stage of the civil action, all of the factual allegations made by the Rinaldis are legally required to be taken to as true. *Scott v. O’Grady*, 975 F.2d 366, 368 (7th Cir.1992), cert. denied, 113 S.Ct. 2421 (1993).

a forged document.

h. Judge Kelley also recommended dismissal of the Rinaldis' Adversary Complaint for fraud and racketeering, despite the production of 3 contradictory Assignments of Mortgage, transmitted by mail and wire, contrary to 18 U.S.C. secs. 1341 and 1343. As to each Assignment of Mortgage (AOM):

(1) The first AOM by date is unrecorded and purports that Wells Fargo Bank assigned the Mortgage to **HSBC Bank USA, National Association as Trustee** on September 14, 2005, and appeared for the first time on November 4, 2011 as an attachment to the Motion for Relief from the Automatic Stay, filed as Doc. 7 in WIEB 11-35689;

(2) The second AOM in time was created by Duncan C. Delhey of Gray & Associates, LLP after summary judgment was granted in the state court foreclosure action purporting to assign the Mortgage from Wells Fargo Bank to **HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2**, the nonexistent entity in whose name foreclosure was granted on false pleadings filed by William N. Foshag, was dated March 1, 2010 was recorded with the Kenosha County Register of Deeds on April 5, 2010; and

(3) The last AOM in time was filed after the Rinaldis filed bankruptcy in WIEB Case No. 11-35689 and their assets were protected against lien perfection by creditors seeking to improve their position to become secured claimants, the Rinaldis' Mortgage was purportedly assigned by Wells Fargo Bank on October 31, 2011 to

HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2

For ease of visualization the three (3) Assignments of Mortgage by which Wells Fargo Bank purported to assign its mortgagee interest to three (3) different entities are

HSBC Bank USA, National Association as Trustee on September 14, 2005;

HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2005-2;

HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, Home Equity Asset-Backed Certificates, Series 2005-2

i. Less than one month after Judge Kelley allowed Claim #6 in the Rinaldis' bankruptcy (WIEB Case No. 11-35689) and denied them an evidentiary hearing to challenge Proof of Claim #6, the same Judge Kelley disallowed a Proof of Claim in *In re Thompson*, WIEB Case No. 05-28262-svk on March 19, 2013⁶ (the Thompson case).

j. The current mortgage servicer in the Thompsons' case, Ocwen Loan Servicing, LLC, appealed from Judge Kelley's Order of March 19, 2013 disallowing the Proof of Claim and the appeal was heard by none other than United States District Court Judge Joseph P. Stadtmueller, who upheld Judge Kelley's March 19, 2013 Decision in the Thompson case on January 7, 2014,⁷ less than one month after he denied the Rinaldis' Rule 59(e) Motion for Amended Findings on December 13, 2013 and threatened the Rinaldis' attorney (Nora) with sanctions for "any further

⁶ The Thompsons, who proceeded to evidentiary hearing (which the Rinaldis were denied) challenged an allonge which, if the Rinaldis could not challenge an endorsement, neither could the Thompsons because an allonge is added to display an endorsement. The Thompsons were allowed an evidentiary hearing, even though they had lost their foreclosure case in state court in 2002 and did not appeal. An ex parte order substituting Wells Fargo Bank for Provident Bank as judgment creditor was entered on the same day that the Thompsons filed their bankruptcy petition in 2005. In the Rinaldis' case, the foreclosure judgment against them had been re-opened and the foreclosure case had been dismissed at the time they filed their bankruptcy in Case No. 11-35689, so whereas a post-judgment order was subject to appeal in the Thompsons' case, there was no judgment whatsoever in the Rinaldis' case.

⁷ *Ocwen Loan Servicing, LLC v. Thompson*, Opinion of Judge Joseph P. Stadtmueller, in WIED Case No. 13-cv-487-JPS.

frivolous submissions.” See ¶78, below.

76. Admits, in part and denies, in part, ¶76 of OLR’s Second Amended Complaint and affirmatively alleges:

- a. There is nothing unethical about appealing from an adverse, erroneous Decision or seeking a review of recommendations.
- b. Nora filed an appeal for the Rinaldis from the Orders arising in core proceedings.⁸
- c. The Rinaldis objected to the recommendations of dismissing the Adversary Complaint.

77. Denies ¶77 of OLR’s Second Amended Complaint as a characterization of the District Court’s October 31, 2013 Opinion and affirmatively alleges:

- a. The Decision speaks for itself.
- b. Nothing in Judge Stadtmueller’s October 31, 2013 Opinion in WIED Case No. 13-cv-336 provides a factual or legal basis for finding that Nora violated any provision of the Wisconsin Code of Professional Conduct.

78. Denies, in part, and admits, in part, ¶78 and affirmatively alleges:

- a. Nora, on behalf of the Rinaldis, moved to alter or amend the judgment.
- b. There is nothing unethical about bringing a Rule 59(e) Motion. See also the affirmative allegations at ¶75-77, above.
- c. Nora denies the implication that it is unethical to identify issues previously denied in a

⁸ Bankruptcy judges enter final orders in “core proceedings” defined at 28 U.S.C. sec. 157(b)(2) and make recommendations to the district courts in non-core matters, 28 U.S.C. sec. 157(c)(1). Final orders entered in “core proceedings” are subject to appeal to the district court under 28 U.S.C. sec. 158(a) within 14 days of the date the order is entered, Fed. R. Bankr. P. 8002(a)(1). Recommendations are subject to objection under 28 U.S.C. sec. 157(c) to be filed at the district court within 14 days, Fed. R. Bankr. P. 9033(b).

Rule 59(e) Motion and request that the judgment be altered or amended to conform to the law.

d. In view of the Decision of Judge Kelley in the Thompson case and the Opinion of Judge Stadtmueller affirming Judge Kelley's Decision on appeal detailed in ¶75.i. and j. and footnotes 9 and 10 above, the Judgment in Rinaldi should have been altered or amended to conform to the law, which Judges Kelley and Stadtmueller followed in the Thompson case, but did not follow in the Rinaldi case.

e. Whereas Judge Stadtmueller found that the Rinaldis were objecting to findings of fact, the Rinaldis were objecting, as a matter of law, to any findings of fact being made upon Rule 12(b)(6) motions to dismiss their Adversary Complaint or allowing Proof of Claim #6 without an evidentiary hearing, as a *matter of law*.

79. Denies ¶79 of OLR's Second Amended Complaint as a characterization of the District Court's October 31, 2013 Decision and affirmatively alleges that the Decision speaks for itself and affirmatively alleges:

a. Nora incorporates by reference, as if fully set forth herein, the affirmative allegations at ¶75-78 above.

b. Nora believed in good faith that the Rinaldis' claims were meritorious and continues to believe that the Rinaldis claims are meritorious.

80. Admits ¶80 of OLR's Second Amended Complaint and affirmatively alleges:

a. There is nothing unethical about appealing from an adverse, erroneous determination of a lower court to a higher court.

b. The Rinaldis had a statutory right to appeal from the Opinions and Orders of Judge Stadtmueller to the Seventh Circuit Court of Appeals under 28 U.S.C. sec. 1291.

c. Nora had a statutory right to appeal to the Seventh Circuit Court of Appeals from the April 9, 2014 Orders of Judge Stadtmueller.

81. Admits, in part, and denies, in part, ¶81 of OLR's Second Amended Complaint, and affirmatively alleges:

a. There is nothing unethical about an attorney dismissing a Chapter 13 bankruptcy petition at his or her clients' direction.

b. Nora did not state that "'she'" wished 'to proceed to state court' with 'newly discovered evidence' that the mortgage was void." The Rinaldis wished to do so.

c. Roger Rinaldi had discovered evidence that the foreign trust, correctly identified as Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust, and not as incorrectly identified by Judge Susan V. Kelley in her February 22, 2013 Order, the Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates Series 2005-2 Trust but "an entity similarly named (the 'Trust')" appeared to have sold certificates to 5 or more persons in the State of Wisconsin, which would cause the provision of Wis. Stats. sec. 226.14 to apply and would void the contracts at issue in the Rinaldis case by operation of law.

82. Admits ¶82 of OLR's Second Amended Complaint and affirmatively alleges that it is apparent that Judge Kelley was wrong because the Rinaldis' appeal was not moot and was heard and determined by the Seventh Circuit Court of Appeals.

83. Admits ¶83 of OLR's Second Amended Complaint and affirmatively alleges that a conflict of interest between the Rinaldis and Nora arose at a confidential settlement conference at the Seventh Circuit Court of Appeals, requiring Nora to withdraw until the conflict was resolved.

84. Admits ¶84 of OLR's Second Amended Complaint and affirmatively alleges that

whether or not Nora's Motion for Leave to Withdraw had yet been granted, Nora was entitled to seek leave to intervene in the proceedings to defend her independent interests for the reasons stated in the Motion for Leave to Intervene.

85. Admits ¶85 of OLR's Second Amended Complaint and affirmatively alleges that there is nothing unethical about seeking and obtaining leave to withdraw as counsel when a conflict of interest arises nor is there anything unethical about withdrawing as counsel when allowed to do so by the court in which the representation was pending.

86. Admits, in part, and denies, in part, ¶86 of OLR's Second Amended Complaint and affirmatively alleges:

a. The Joint Motion for Rule 60(b) Relief by the Rinaldis and Nora on April 2, 2014 was filed under existing law and supported by substantial evidence, newly discovered.

b. New evidence consisting of the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual, Version 1, Revision 3* (the "*Manual*") had been discovered by public disclosure on March 18, 2014, was verified as to its authenticity and was filed within 14 days from the date of its public disclosure.

c. There is nothing frivolous or otherwise unethical about seeking Rule 60(b) relief on discovery of new evidence within one (1) year after the entry of the order or judgment from which relief is sought and Fed. R. Civ. P. 60(b)(2) specifically allows for the relief sought.

d. The newly discovered evidence of the *Manual*, which was verified as being authentic, is evidence of both the agreement between the defendants in the Rinaldis' Adversary Proceeding and the method of operation by which wire fraud is committed by Wells Fargo Bank and its attorneys in foreclosure cases throughout the nation.

e. There is nothing frivolous or otherwise unethical about seeking Rule 60(b) relief on discovery of **new evidence of fraud which occurred in the case under review** within one (1) year after the entry of the order or judgment from which relief is sought and Fed. R. Civ. P. 60(b)(3) specifically allows for the relief sought.

f. Rule 60(b)(4) provides for relief from orders or judgments in which the Court denied a party due process of law. A judgment is void if the court that rendered it lacked jurisdiction of the subject matter or of the parties, or if it acted in a manner inconsistent with due process of law. See *Philos Techs., Inc. v. Philos & D, Inc.*, 645 F.3d 851, 854 (7th Cir. 2011) (citing *Planet Corp. v. Sullivan*, 702 F.2d 123, 125 n.2 (7th Cir. 1983); *Price v. Wyeth Holdings Corp.*, 505 F.3d 624, 631 (7th Cir. 2007) (citations omitted); *Marques v. Fed. Reserve Bank of Chicago*, 286 F.3d 1014, 1018 (7th Cir. 2002).

g. There is nothing frivolous or otherwise unethical about seeking Rule 60(b) relief on the basis that an order or judgment is void for violation of a party's due process rights, Fed. R. Civ. P. 60(b)(4) specifically allows for the relief sought, and there is no time frame for seeking relief from a void order or judgment.

87. Admits ¶87 of OLR's Second Amended Complaint and affirmatively alleges that there is nothing unethical about appealing from an adverse, erroneous determination of a lower court to a higher court.

88. Admits ¶88 of OLR's Second Amended Complaint and affirmatively alleges that Nora was unable to persuade the Seventh Circuit Court of Appeals that Judge Stadtmueller abused his discretion in his April 9, 2014 Order for Sanctions.

89. Denies, in part, and admits, in part, ¶89 of OLR's Second Amended Complaint, and

affirmatively alleges:

a. An award of sanctions, standing alone, is insufficient to support a charge of *knowingly or recklessly* filing a “frivolous” Rule 60(b) Motion or a “frivolous” Motion for Leave to Intervene in a matter to allow a nonparty to defend an interest which cannot be fully defended by the parties to the proceeding under Fed. R. Civ. P. 24(a)(2) or has a defense based on common issues of fact or law with the parties already proceeding in the matter under Fed. R. Civ. P. 24(b). (2).

b. Nora’s defense against a pending motion for sanctions under Fed. R. Bankr. 9011 brought by the Adversary Defendants in Adv. No. 12-ap-2412 was believed in good faith to give her standing to seek leave to intervene and, far more importantly, the newly discovered evidence of the agreement and modus operandi of the fraud scheme Nora alleges on behalf of the Rinaldis in the Adversary Complaint was new evidence which she and the Rinaldis were required to bring to the attention of the Court under 18 U.S.C. sec. 4.

c. There is no violation of any ethics rule for filing papers that a court finds to be “confusing,” although Nora tried her best not to confuse the courts and believes in good faith that the “confusion” is inherent in the transactions Nora is attempting to expose. There is, however, nothing “confusing” about the information contained in the *Manual* which specifically instructs Wells Fargo Bank’s attorneys to electronically order the creation of documents needed to improve the litigation position they are instructed to take. (See *Manual*, pages 17 and 20-22, which are alleged to have been followed by the Adversary Defendants in the Rule 60(b) Motion at pages 6 and 12.) See the Decision of Judge Robert D. Drain in *In re Carssow-Franklin*, NYSB Case No. 10-20010, ironically citing to the WIEB case *Ocwen Loan Servicing, LLC v.*

Thompson 2014 U.S. Dist. LEXIS 2109, at *14-15 (E.D. Wisc. Jan. 7, 2014) referenced at ¶¶75 and 78 and at footnotes 9 and 10 to ¶75, above, in which Judges Kelley and Stadtmueller reached the exact opposite result in the Thompson case to that reached in the Rinaldi case, within one month of each respective ruling. The Thompsons were allowed to proceed to an evidentiary hearing and the Rinaldis were denied the opportunity to present evidence in support of their objection to Proof of Claim #6.

d. There is no violation of any ethics rule for filing papers that are “needlessly argumentative,” although a court may, in the appropriate case and in its inherent authority, sanction an attorney or a party for disruptive behavior, which is an ethics violation under SCR 20:3.5(d) if the conduct was intended to disrupt a tribunal, but which Nora’s argument described in ¶89, below, did not disrupt the tribunal nor was her indication that HSBC Bank USA, N.A. had signed a deferred prosecution agreement for money laundering at the end of 2012 intended to do.

e. Judge Stadtmueller found that Nora should not have argued that HSBC Bank USA, N.A. (“HSBC”) had publicly admitted to a scheme involving money laundering for Mexican drug cartels for which it entered into an agreement to pay a penalty of 1.9 Billion Dollars in her brief on appeal and that such an argument had no place in a brief. Nora was trained to include socially relevant factors in briefs at the University of Wisconsin Law School which she attended between 1972 and 1975. Nora believed in good faith that the conviction of “HSBC” for money laundering was socially relevant to the extent that courts tend to believe that banks can do no wrong. Our very language employs idioms like “You can bank on it” and “Take it to the bank” to express concepts of truthfulness and security. Since 2008, there is ample evidence that such

concepts are outdated and are no longer valid. Nevertheless, even a “needlessly argumentative” brief is not a violation of the Wisconsin Code of Professional Conduct. While courts may seek to sanction their officers to maintain order, Nora did not make any “needlessly argumentative” remarks in the April 2, 2014 Motions for which she was sanctioned.

f. OLR’s ¶89 fails to allege facts constituting a violation of the Wisconsin Code of Professional Conduct.

COUNT FOUR

90. Denies ¶90 of OLR’s Second Amended Complaint in its entirety and affirmatively alleges:

a. There is no factual basis for the allegations in ¶¶1-89, above, except as specifically admitted by Nora except possibly where she lacks sufficient knowledge to form a belief as to the truth of the matters asserted therein.

b. Nora’s affirmative allegations are exculpatory, have long been known to OLR and were first incompetently, then recklessly and, finally, maliciously ignored by OLR.

c. The superficial amendments to ¶6 and ¶19, along with the amendment to ¶1, which the Referee was not even asked to approve for filing (and the Referee’s approval is ultra vires in any event) not only fail to “fix” the “patently erroneous” allegations but reveal the malice of OLR in continuing to proceed on facts and allegations of misconduct allegations against Nora for which the preliminary review panel of the PRC did not find cause to proceed.

d. ¶90 fails to specify which subsection of SCR 20:3.1(a) Nora is alleged to have violated in the Rinaldi Matter.

e. Nora violated no subsection of SCR 20:3.1(a) in her representation of the Rinaldis or

in her self-representation in the Rinaldi matter.

f. By filing the April 2, 2014 Rule 60(b) Motion for Relief and the Motion for Leave to Intervene which the United States District Court for the Eastern District of Wisconsin found to be “frivolous,” Nora did not violate any of the three (3) subsections of SCR 20:3.1(a) because there is no allegation in OLR’s ¶¶64-89, let alone clear, convincing and satisfactory evidence that Nora:

(1) knowingly advance[d] a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law because Nora’s Motions were based on existing law;

(2) knowingly advance[d] a factual position unless there is a basis for doing so that is not frivolous because Nora had substantial evidence to support the Motions;

(3) file[d] a suit, assert[ed] a position, conduct[ed] a defense, delay[ed] a trial or [took] other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another because Nora’s Motions were entirely allowed by existing law, supported by substantial evidence and because OLR has pleaded no facts that the Motions were filed to harass or maliciously injure any party.

g. OLR has pleaded no facts which support a violation of SCR 20:3.1(a).

h. OLR’s Count Four fails to state a claim upon which relief may be granted.

i. No violation of SCR 20:3.1(a)(3) is supported by any facts, whether true or false, in ¶¶1-89 of the Second Second Amended Complaint.

j. The proceedings on OLR’s Second Amended Complaint are ultra vires in violation of

SCR 22.11(2).

COUNT FIVE

91. Denies ¶91 of OLR's Second Amended Complaint in its entirety and affirmatively alleges:

a. There is no factual basis for the allegations in ¶¶1-89, above, except as specifically admitted by Nora except possibly where she lacks sufficient knowledge to form a belief as to the truth of the matters asserted therein.

b. Nora's affirmative allegations are exculpatory, have long been known to OLR and were first incompetently, then recklessly and, finally, maliciously ignored by OLR.

c. The superficial amendments to ¶6 and ¶19, along with the amendment to ¶1, which the Referee was not even asked to approve for filing (and the Referee's approval is ultra vires in any event) not only fail to "fix" the "patently erroneous" allegations but reveal the malice of OLR in continuing to proceed on facts and allegations of misconduct allegations against Nora for which the preliminary review panel of the PRC did not find cause to proceed.

d. By filing the April 2, 2014 Rule 60(b) Motion for Relief and the Motion for Leave to Intervene which the United States District Court for the Eastern District of Wisconsin found to be "frivolous," Nora did not violate any of the three (3) subsections of SCR 20:3.1(a) because there is no allegation OLR's ¶¶64-89, let alone clear, convincing and satisfactory evidence that Nora violated SCR 20:3.2, which provides:

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

e. Neither the Joint Motion for Rule 60(b) Relief nor Nora's Motion for Leave to Intervene in the consolidated case before the United States District Court for the Eastern District

of Wisconsin as Case No. 13-cv-336, then pending on appeal to the United States Court of Appeals for the Seventh Circuit as Case Nos. 13-3865 and 14-1887 delayed any proceedings, nor were the Motions brought by the Rinaldis or Nora and the Rinaldis, which did *not* delay the proceedings, contemplated to delay the proceedings.

f. There is not a single factual allegation in OLR's ¶¶64-89 which alleges that delay was contemplated or that any delay resulted from the Motions which are the subject of Count Five.

g. OLR filed Count Five in violation of SCR 22.11, SCR 20:3.1(b) and Wis. Stats. sec. 802.05(2)(c) and, having been given ample opportunity to withdraw this Count Five as being unsupported by any facts, can now be shown to have violated Wis. Stats. sec. 802.05(a) because there is no explanation for the OLR persisting in the pursuit of Count Five except that it is seeking to harass or maliciously injure Nora for her lawful conduct in representing her clients' in their efforts to petition the judiciary for redress of grievances and defending herself against the factually and legally unsupported charges of violations of Fed. R. Bank. P. 9011 and to defend herself against prospective, now actualized false claims that she has violated any provision of the Wisconsin Rules of Professional Conduct in representing the Rinaldis.

h. No violation of SCR 20:3.1(a)(3) is supported by any facts, whether true or false, in ¶¶1-90 of the Second Amended Complaint.

i. The proceedings on OLR's Second Amended Complaint are ultra vires in violation of SCR 22.11(2).

**AFFIRMATIVE DEFENSES AND ADDITIONAL FACTUAL BASES FOR
DAMAGES ACTION PURSUANT TO WIS. STATS. SEC. 895.044**

92. Discovery and investigation may reveal that one or more of the following additional defenses should be available to Nora in this matter, and, therefore, she reserves her right to

assert any such yet to be discovered separate and additional defenses.

93. Upon completion of discovery, if the facts warrant, Nora may withdraw any of these affirmative defenses as may be appropriate, and further reserves the right to amend this answer and affirmative defenses and to assert additional defenses and other claims, as this case proceeds.

94. As and for an affirmative defense, these proceedings have been commenced and continued in violation of SCR 22.11.

95. As and for an affirmative defense, this tribunal was divested of subject matter jurisdiction on August 18, 2016 when the Second Amended Complaint was filed contrary to SCR 22.11(2).

96. As and for an affirmative defense, alleges that OLR has failed to state any claim upon which relief may be granted.

97. As and for an affirmative defense, Nora represented Ms. Spencer and the Rinaldis on the basis of existing law or as a good faith effort to modify or extend existing law.

98. As and for an affirmative defense, Nora's pleadings in the Spencer and Rinaldi cases were based upon sufficient evidence, except where allegations were pleaded upon information and belief.

99. As and for an affirmative defense, any order upon which OLR might rely for preclusion of Nora's defenses in these proceedings is void for violation of Nora's constitutional rights and/or the constitutional rights of Ms. Spencer and the Rinaldis.

100. As and for an additional affirmative defense, these proceedings are ultra vires and result from an unauthorized "continuing investigation" directed against Nora by Stieren and St. Ores at the direction of Potteiger and Foshag for the purpose of concealing the misconduct in

public office of OLR, its employees and agents, by failure to investigate the activities of the grievants, attorneys at their law firms, their co-counsel and other attorneys representing mortgage servicing agents in the State of Wisconsin.

101. As and for an additional affirmative defense, alleges that OLR has commenced this action without cause, knowingly or recklessly proceeding without a good faith belief that it can prove any of the Counts One through Five by clear, satisfactory and convincing evidence.

102. As and for an additional affirmative defense, alleges that OLR commenced its inquiries into the Spencer and Rinaldi Matters identified as OLR Matters 2014MA1570, 2014MA002117 and 2015MA614 at the behest of litigation opponents of Nora and her clients, concealing their identities in the course of an ultra vires “continuing investigation” of Nora’s litigation practice.

103. OLR has initiated and continues these proceedings in bad faith for the purpose of curtailing Nora’s litigation practice at the behest of her litigation opponents.

104. OLR has initiated and continues these proceedings in bad faith for the purpose of concealing misconduct in public office by OLR’s employees, who have persistently failed to investigate grievances filed by homeowners alleging violations of their due process rights, the filing of false pleadings, and the use of forged documents and falsely sworn affidavits by mortgage servicing agents *and their attorneys* in Wisconsin foreclosure actions.

105. As and for an affirmative defense, these proceedings violate Nora’s due process rights by seeking to punish Nora for engaging in lawful conduct, which is a due process violation of the most basic sort. *Bordenkircher v. Hayes*, supra.

106. As and for an affirmative defense, these proceedings violate Nora’s due process

rights guaranteed by the Fourteenth Amendment to the *United States Constitution* and Article One, Section 1 of the *Wisconsin Constitution* by seeking to punish Nora for engaging in lawful conduct, which is a due process violation of the most basic sort. *Bordenkircher v. Hayes*, supra.

107. As and for an affirmative defense, these proceedings violate Nora's rights to petition the judiciary for redress of her clients' grievances guaranteed by the First Amendment to the *United States Constitution* and Article One, Section 4 of the *Wisconsin Constitution* and seek to punish Nora engaging in lawful conduct, which is a due process violation of the most basic sort under *Bordenkircher v. Hayes*, supra.

108. As and for an affirmative defense, these proceedings are an attempt by OLR and the grievants to punish Nora for not only engaging in lawful conduct, which is a due process violation of the most basic sort under *Bordenkircher v. Hayes*, supra, but is an attempt to punish her for upholding her oath as an officer of the Supreme Court of Wisconsin, at SCR 40.15, which provides:

I will support the constitution of the United States and the constitution of the state of Wisconsin;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land;

I will employ, for the purpose of maintaining the causes confided to me, such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.

So help me God. (Emphases added.)

109. As and for an affirmative defense, the November 30, 2016 Complaint and January 19, 2016 Second Amended Complaint were void for having been brought in violation of Nora's constitutional rights under the First and Fourteenth Amendments to the *United States Constitution* and Article One, Sections 1 and 4 of the *Wisconsin Constitution*.

110. As and for an affirmative defense, the August 18, 2016 Second Amended Complaint is void for having been brought in violation of Nora's constitutional rights under the First and Fourteenth Amendments to the *United States Constitution* and Article One, Sections 1 and 4 of the *Wisconsin Constitution* and without subject matter jurisdiction which requires compliance with the mandatory provision of SCR 22.11(2).

111. As and for an affirmative defense, OLR's complaints and its conduct through the acts and omissions of its employees, agents, grievants and witnesses in these proceedings involve violations of the Wisconsin Code of Professional Responsibility have been and will continue to be extensively documented herein and in Nora #1.

112. As and for an affirmative defense, numerous allegations in the complaint(s) are brought in violation of Wis. Stats. sec. 802.05(a), (b) and (c) as specified above in each paragraph of the Conditional Answer above.

113. As and for an additional affirmative defense, OLR's claims are barred, in whole or in part, by the doctrines of unclean hands, based upon the following additional facts:

a. Attorney Sheryl St. Ores (OLR Assistant Litigation Counsel, previous counsel for OLR), Attorney Paul W. Schwarzenbart (current counsel for OLR who has refused to produce exculpatory evidence of Potteiger's crimes in Nora #1), and Attorney Lisa C. Goldman (Referee in Nora #1, who refused to grant relief from Summary Judgment in Nora #1 or even consider the

evidence in support of the Motion for Relief based on Potteiger's criminal forgery and false swearing) are criminally complicit in concealing evidence of crimes of false swearing in violation of Wis. Stats. sec. 946.32, forgery in violation of Wis. Stats. sec. 943.38(1)(a) and uttering forged documents in violation of Wis. Stats. sec. 943.38(2) committed by Attorney David M. Potteiger in Nora #1.

b. Attorney Travis Stieren, Attorney Robert Kasieta and Attorney Edward A. Hannan are criminally complicit with Potteiger in the unauthorized re-disclosure of Nora's confidential medical records taken by Attorney David M. Potteiger from under federal court seal in violation of Wis. Stats. sec. 146.84(2)(a)2. without a reasonable belief that the dissemination of Nora's medical records were necessary to protect another from harm.

c. Attorney Travis Stieren, Attorney Robert Kasieta and former PRC chairperson Attorney Edward A. Hannan are criminally complicit in the negligent, unauthorized re-disclosure of Nora's confidential medical records unlawfully taken by Grievant Potteiger from under federal court seal in violation of Wis. Stats. sec. 146.84(2)(c) for the pecuniary benefit of attorneys for mortgage servicing agents, represented by Attorney Hannan and Grievant Potteiger.

d. OLR, through Attorney Sheryl St. Ores unlawfully entered into a dual representation arrangement with Grievant David M. Potteiger, from whom she sought legal advice and counsel in the prosecution of Nora in Nora #1.

e. Upon information and belief, Attorney Travis Stieren unlawfully disclosed confidential probate court records to the Preliminary Review Committee in Nora #1 and to Grievant David M. Potteiger, which Stieren obtained under false pretenses from Nora, pretending to be verifying whether or not a guardian ad litem had been appointed for her in a temporary

guardianship matter at the behest of Potteiger, who falsely accused Nora of having misrepresented that probate proceedings had been initiated while she was suffering from the effects of a concussion, when such proceedings had been initiated and Potteiger was seeking to gain access to confidential court records which he was otherwise prevented from obtaining.

f. The acts described above have been designed to harass, intimidate, burden and oppress Nora in order to “curtail” her litigation efforts to expose the crimes and frauds of mortgage servicing agents and their attorneys in the State of Wisconsin by which they file and cause to be filed false pleadings, based on false or forged documents, supported by falsely sworn affidavits in order to foreclose on Wisconsin homes for the benefit of unidentified real parties in interest.

114. At all times relevant to the facts alleged by OLR (without the requisite finding of cause by a preliminary review panel of the PRC), the facts in support of Nora’s claims or defenses on behalf of Ms. Spencer and the Rinaldis were based upon sufficient evidence, unless pleaded upon information and belief, in which case Nora believed in good faith that sufficient evidence would be obtained in discovery or upon further investigation in support of the claims or defenses or did not know that the evidence upon which she relied was, in fact, insufficient.

115. At all times relevant to the facts alleged by OLR (without the requisite finding of cause by a preliminary review panel of the PRC), the legal positions asserted by Nora in support of the claims or defenses on behalf of Ms. Spencer and the Rinaldis were based upon existing law or a good faith argument for the extension or modification of existing law or did not know that her argument for extension or modification of existing law would be deemed to be unwarranted at the time she presented the legal positions at issue.

116. In the course of her representation of Ms. Spencer and the Rinaldis it was not

obvious to Nora that such action would serve *merely* to harass or *maliciously* injure another and she took no action with malice or merely to harass another.

117. As and for an affirmative defense, OLR is prosecuting Nora in bad faith in violation of her constitutional rights.

WHEREFORE, Nora moves for dismissal of each and every Count in these proceedings

(1) For lack of subject matter jurisdiction of which the tribunal was divested by the filing of the August 18, 2016 Second Amended Complaint (All Rights Reserved);

(2) In the alternative for lack of competency which Nora does not waive (All Rights Reserved);

(3) For the commencement and continuation of disciplinary proceedings to punish Nora for the lawful exercise of her constitutional rights and her efforts to provide her clients with their constitutional rights as set forth above (All Rights Reserved);

(4) For selective and vindictive prosecution;

(5) For failure to state a claim upon which relief may be granted;

(6) For failure to plead or prove the each and every factual allegation purported to constitute elements of the charges in any or all Counts by clear, satisfactory and convincing evidence;

(7) Reserving such other motions as may be brought at or after the evidentiary hearing now set over which the tribunal retains jurisdiction under Wis. Stats. secs. 802.05 and 895.044; and

(8) For her reasonable, actual attorney's fees at her hourly rate for service to clients with the ability to pay, the reasonable, actual attorney's fees of Attorney John William Verant, Nora's

co-counsel, along with her actual costs of defending against these proceedings, filed on false facts, misrepresentations of law, upon multiple violations of the Wisconsin Code of Professional Conduct by OLR, its agents and employees, in violation of Wis. Stats. sec. 802.05(2)(a), (b) and (c) for the purpose of "curtailing" Nora's litigation activities at the request of one of Nora's litigation opponents in her action for damages pursuant to Wis. Stats. sec. 895.044 to be renewed by Motion at the close of evidentiary proceedings commencing on October 31, 2016.

Dated: September 7, 2016.

IMAGES OF THE SIGNATURES BELOW WILL HAVE
THE SAME FORCE AND EFFECT AS THE ORIGINALS



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DECLARATION OF SERVICE

Wendy Alison Nora declares that she served the foregoing document Referee James J. Winiarski by email with paper copy to follow by U.P.S. Mail and upon Paul W. Schwarzenbart, for OLR, by email and by U.P.S. on September 7, 2016.



Wendy Alison Nora

APPENDIX O

STATE OF WISCONSIN

IN THE SUPREME COURT

**IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST, WENDY ALISON NORA,
ATTORNEY AT LAW**

CASE CODE 30912

OFFICE OF LAWYER REGULATION

CASE NO. 2015AP002442-D

Complainant;**WENDY ALISON NORA****Respondent.**

DECISION ON PENDING MOTIONS AND ORDER

On August 17, 2016, I received by e-mail and attachment the following motions by the respondent:

Jurisdictional Objection and Notice of Motions and Motions; (1) To Dismiss for Lack of Subject Matter and Personal Jurisdiction and Alternative Motions; (2) To Require the Filing and Service of the Second Amended Complaint; (3) To Allow Filing of a Response to the Second Amended Complaint Upon Service; (4) For Relief from Scheduling Order; (5) For Continuance of Proceedings to the Alternative Hearing Date Set Forth in the February 18, 2016 Scheduling Order; Reserving Rights to Amend Motion for Writ of Mandamus Requiring Referee to Provide Respondent with Right to be Heard.

By order dated August 18, 2016, a briefing schedule was established in relation to said motions with OLR having until August 26, 2016, to file a brief or response and the respondent having until September 2, 2016, to file any reply.

Briefs, responses and replies have now been filed.

DECISION

Respondent again moves for dismissal of this case for lack of subject matter and personal jurisdiction. I previously denied a similar motion by the respondent. I have also previously warned the parties that repetitious motions would be denied summarily.

OLR was granted permission to file a second amended complaint. I have carefully reviewed the second amended complaint and I find the amendments to be nominal in nature. The changes were made to clarify OLR's allegations and they do not represent new allegations or substantial changes.

There are essentially two paragraphs changed in the second amended complaint. Paragraph 6 of the second amended complaint now correctly identifies the Wood County foreclosure action by the correct title and case number. OLR is not alleging a new or different case than that which was referred to in earlier pleadings, but rather just clarifying the case by correct title and case number.

Respondent's response to the amended complaint filed on May 20, 2016, shows that she was fully aware of the case being referred to in the amended complaint in paragraph 6. Respondent's answer to that amended complaint repeatedly and in a lengthy fashion pointed out OLR's erroneous case number. Respondent was fully aware that there was only one Wood County foreclosure case which is the subject matter of this disciplinary case. There was no confusion on her part. Rather than simply correcting the error, respondent sought to take advantage of the error with lengthy and confusing arguments and allegations.

I find that respondent was not misled by the original allegation nor has she been harmed by the corrections made to paragraph 6 in the second amended complaint. Any time, expense or burdens allegedly suffered by the respondent because of the original errors in paragraph 6 of the

amended complaint are due solely to respondent's efforts to cause confusion and to take advantage of OLR's innocent error in stating the wrong case number.

As to the changes in paragraph 19 of the amended complaint as now reflected in the second amended complaint, respondent is again attempting to make the most of a simple clarification. She has not been misled or prejudiced by the simple corrections. The change from "three additional unlawful ex parte letter communications" to "three additional unlawful ex parte communications" does not represent a substantial change. Respondent was fully aware of the allegations she made in relation to ex parte communications. She was not misled or confused by the amended language, given that she had actual knowledge of her allegations and her claims in relation to the alleged ex parte communications.

A reading of the second amended complaint shows that the alleged misconduct involved does not relate to whether the ex parte communications were by letter or otherwise. The issue is whether respondent alleged improper ex parte communications with the judge involved. Respondent suffers no prejudice as a result of the refined allegations in the second amended complaint.

Respondent's jurisdictional objection is based on the theory that given the changes set forth in the second amended complaint, such changes must be approved by the Preliminary Review Committee. I find such argument to be frivolous and without any merit. The record in this case shows that the Preliminary Review Committee was presented with the facts of the Wood County foreclosure case and respondent's conduct during the course of that case. The Preliminary Review Committee was not concerned with the case number or caption of that case, but rather with what happened during the course of that case. They reviewed respondent's conduct during that case and that was the basis for their approval of the filing of this disciplinary proceeding.

This disciplinary proceeding does not involve multiple foreclosure cases in Wood County. There was only one such case. The Preliminary Review Committee did not review the wrong Wood County foreclosure case. Respondent has not been denied due process. I find that the respondent is deliberately trying to delay this disciplinary case by her claims that the Wisconsin Supreme Court now lacks subject matter and personal jurisdiction to proceed in this disciplinary case because the limited changes made in the second amended complaint were not reviewed by the Preliminary Review Committee.

After I gave OLR permission to file the second amended complaint I had also ordered that respondent have the opportunity to conduct discovery on the limited changes made in the second amended complaint. I have also ordered that she be permitted to name any witnesses she believes are now necessary in relation to the changes made to the allegations in paragraph 6 and paragraph 19 in the second amended complaint. I have expressly limited the naming of new witnesses and any additional discovery to the precise changes made in paragraph 6 and paragraph 19 of the second amended complaint.

Respondent did not name any witnesses in a timely fashion per the deadlines set forth in the original scheduling order. The original scheduling order also had a discovery deadline of August 30, 2016. Respondent has been advised that the limited changes made in the second amended complaint do not open up a new window for her to name witnesses or to conduct discovery, except to the extent of the precise changes and amended allegations made in the second amended complaint.

My prior order changing the hearing date did not deal with the revised deadline for making and filing exhibits in a 3-ring binder. Per the original scheduling order, marked exhibits were due August 30, 2016. The new deadline is now October 24, 2016, but is limited to exhibits directly

relevant to the changes made in the second amended complaint. The new deadline does not represent a general reopening of the August 30, 2016 deadline.

In relation to the four additional motions made by the respondent, all have been resolved by previous orders. A second amended complaint was permitted and has been filed and answered. The motion to require the filing and service of the second amended complaint is therefore moot. Respondent was given the statutory time period to file a response to the second amended complaint and she has done so. That motion is also moot.

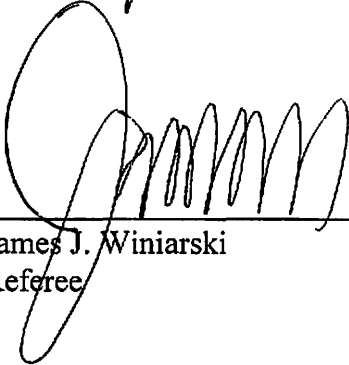
I have revised the terms of the original scheduling order given the filing of the second amended complaint. As set forth above, the discovery deadline and the deadline for naming witnesses have been modified because of the amendments. I have also ordered that the hearing in this matter be postponed to the alternative hearing dates set forth in the original scheduling order. Thus respondent's remaining motions are moot.

IT IS ORDERED:

1. Respondent's motion to dismiss for lack of subject matter and personal jurisdiction is denied.
2. Respondent's motion to require the filing and service of a second amended complaint is moot and is denied.
3. Respondent's motion to allow filing of a response to the second amended complaint is moot given that the second amended complaint was filed and answered by the respondent.
4. Respondent's motion for relief from the scheduling order is now moot given that changes have already been made to the original scheduling order.

5. Respondent's motion for continuance of proceedings to the alternative hearing dates set forth in the February 18, 2016, scheduling order is now moot given such changes have already been made to the original scheduling order. Said motion is therefore denied.

Dated at Milwaukee, Wisconsin, this 20th day of Sept, 2016.



James J. Winiarski
Referee

APPENDIX P

**STATE OF WISCONSIN
IN THE SUPREME COURT**

**IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST WENDY ALISON NORA,
ATTORNEY AT LAW;**

**OFFICE OF LAWYER REGULATION, CASE NO. 2015AP2442-D
 CASE CODE 30912**

Complainant;

WENDY ALISON NORA,

Respondent.

COMPLAINANT’S POST-TRIAL BRIEF

NOW COMES the Complainant, the Office of Lawyer Regulation (“OLR”), and submits its post-trial brief in this matter.

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INTRODUCTION

The Second Amended Complaint (“complaint”) sets forth five counts for discipline arising out of respondent Nora’s conduct in two matters, the “Spencer matter” and the “Rinaldi matter.” OLR first addresses the counts arising out of the Spencer matter and then addresses the counts arising out of the Rinaldi matter.

ARGUMENT

I. CLEAR, SATISFACTORY AND CONVINCING EVIDENCE SUPPORTS THE COUNTS ARISING OUT OF THE SPENCER MATTER.

A. Facts Regarding Spencer Matter (“Spencer Facts”).

The record in relation to the Spencer Matter shows the following:

1. The Spencer Matter was a mortgage foreclosure action commenced in the Circuit Court for Wood County in April 2009. Exhibit (“Ex.”) 1:1; Ex. 2:1; Ex. 53:2.

2. Nora's involvement commenced in early May 2012 when she filed a notice of appearance for defendant Sheila Spencer and a motion to postpone a hearing on a summary judgment motion scheduled for May 23, 2012. Transcript ("Tr.") at 316:3-319:19; Ex. 1:3-4 (CCAP¹ Items 32, 36-38).

3. Nora appeared in person at the May 23, 2012 hearing. Tim Brovold, an attorney from Gray & Associates, S.C. ("Gray Firm"), counsel for the plaintiff, appeared by telephone. Judge Gregory Potter, the presiding judge, granted Nora the postponement she sought and directed Nora to file and serve a list of issues on or before June 29, 2012. Ex. 8; Ex. 9:1, 15-16; Tr. at 319:21-325:12.

4. Nora did not file the list of issues by June 29, 2012 as directed by the court. Instead, on June 27, 2012, she filed an "Affidavit of Nonreceipt of Motion for Proposed Order and Final Order." Ex. 1:4 (CCAP Item 43); Ex. 13; Tr. at 325:13-326:6.

5. Nora testified she filed the June 27, 2012 affidavit with a motion dated June 28, 2012, for an extension of time to file the list of issues (Tr. at 348:4-20), but the CCAP record and court record index show these as separate filings. Ex. 1:4-5; Ex. 2:3.

6. In her June 27, 2012 affidavit, Nora stated that she had reviewed the CCAP record, that she was "shocked to find that an Order was entered in these proceedings on June 12, 2012," and that she had not been served with a motion seeking entry of an order after the May 23, 2009 hearing. Ex. 13:2, ¶¶ 3, 4.

¹ CCAP is an acronym for the State of Wisconsin "Consolidated Court Automation Programs." Wisconsin courts have taken judicial notice of CCAP records. *See, e.g., Kirk v. Credit Acceptance Corp.*, 2013 WI App 32, ¶ 5 n.1, 346 Wis. 2d 635, 829 N.W.2d 522.

7. In her June 27 affidavit, Nora stated that she “needed the order for the deadline of June 28, 2012” (Ex. 13:2, ¶ 9), referring to her obligation to file and serve the list of issues by the June 29, 2012 deadline. Tr. at 337:4-17.

8. Nora’s June 27 affidavit contains no satisfactory explanation how entry of an order she said she had not seen affected her obligation to file the list of issues. Ex. 13.

9. In her June 27 affidavit, Nora stated that the court’s clerk told her that the Gray Firm had sent the order and a letter to Judge Potter. Ex. 13:2, ¶¶ 10-12.

10. Nora made no effort to contact the Gray Firm to obtain a copy of what had been sent to the court. Tr. at 338:17-340:2.

11. In her June 27 affidavit, Nora described the Gray Firm’s conduct regarding the order as an “ex parte communication with the Court.” Ex. 13:3, ¶¶ 13-16.

12. In her June 27 affidavit, Nora stated that she was considering the possibility of “moving to disqualify Judge Potter for ex parte communications with GRAY & ASSOCIATES, L.L.P.” Ex. 13:4, ¶ 17.e.

13. The June 28, 2012 motion filed by Nora states that Spencer seeks “the Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte Communications and Entering Ex Parte Orders in These Proceedings.” Ex. 14:1.

14. In her June 28 motion, Nora refers to the Spencer proceeding as a “mockery of justice” (*Id.*, 14:2, ¶ 1) and as “these misbegotten proceedings” (*Id.*, 14:2, ¶ 3).

15. In her June 28 motion, Nora stated that on June 27, 2012, she received from her client copies of a letter to the court dated May 25, 2012 and a signed order filed June 12, 2012 (*Id.*, 14:3, ¶ 8). Nora acknowledged that Exhibit 10 was a copy of the letter and

Exhibit 12 was a copy of the order referred to in her June 28 motion and in her June 27 affidavit. Tr. at 360:3-363:1.

16. The letter of transmittal dated May 25, 2012 and proposed order shows a carbon copy to Nora. Ex. 10:1. Nora could not explain how Judge Potter would have known that the Gray Firm had not sent her a copy of the letter and proposed order or that she had not received a copy of the letter and proposed order. Tr. at 364:11-25.

17. In her June 28 motion, Nora stated that “[t]his is not the first instance of ex parte communications leading to orders being entered by Judge Gregory J. Potter. Ex. 14:4, ¶ 22. Nora referred to three purported prior instances: a filing on March 31, 2010 (Ex. 14:4-5, ¶ 23.a.); (2) a pair of letters dated February 17, 2011 (*Id.*, ¶¶ 23.c. and 23.d.); and a motion to vacate a summary judgment dated June 17, 2011 (*Id.*, ¶ 23.e.).

18. In her June 28 motion, Nora referred to the “recent ex parte order” as “another example of the improper practices in these proceedings.” *Id.*, ¶ 24.

19. In her June 28 motion, Nora stated that “the secret proceedings held in this matter constitute a miscarriage of justice and that those practices continued in the ex parte order changing the substance of the Court’s order entered on the record of the proceedings on May 23, 2012.” Ex. 14:6, ¶ 26.

20. In her June 28 motion, Nora stated that “[a] reasonable inference arises from these facts that Judge Gregory J. Potter has colluded with GRAY & ASSOCIATES, LLP to circumvent proper practice and procedure by engaging in and facilitating ex parte communications by which orders have been entered by the court.” *Id.*, ¶ 31.

21. Nora demanded that Judge Potter recuse himself based on SCR 60.04(4)(g),

which generally proscribes ex parte communications, and SCR 60.04(e), which states that “[a] judge shall perform judicial duties without bias or prejudice.” Ex. 14:7-8, ¶ 37.

22. Nora had no personal knowledge as to the alleged ex parte communications prior to her appearance in the case. Her knowledge was limited to what was shown in the court record and what others told her. Tr. at 31:11-17.

23. As to the alleged March 31, 2010 ex parte communication, an affidavit of a Gray Firm employee shows that on that date Spencer was served a copy of a Notice of Motion and Motion filed with the court on April 5, 2010. Ex. 15; Tr. at 418:17-419:9.

24. As to the alleged February 17, 2011 ex parte communication, the court record shows that the letter to the court cancelling a hearing was copied to Sheila Spencer. Ex. 16; Tr. at 368:16-369:6.

25. As to the alleged June 20, 2011 ex parte communication, the court record shows that the letter to the court filing a petition and order to vacate the judgment was copied to Sheila Spencer. Ex. 18; Tr. at 370:3-371:1.

26. On June 23, 2012, Nora filed a “Notice of Continuing Objection to Further Proceedings.” The Notice seeks “Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte Communications and Entering Ex Parte Order [sic.] in these Proceedings” Ex. 19:1; Tr. at 379:19-381:7.

27. On June 25, 2012, Nora filed an “Amended Notice of Continuing Objection to Further Proceedings.” Ex. 20; Tr. at 404:6-16. The only difference between the Notice and the Amended Notice is that the name of Attorney Timothy Mark Brovold of the Gray Firm appears in paragraph 4 of the Amended Notice. Tr. at 407:19-414:3.

28. In her “Continuing Objection,” Nora alleged that the Gray Firm had made “multiple fraudulent filings” in the case. Ex. 20:3, ¶ 7; Tr. at 389:2-5.

29. In her “Continuing Objection,” Nora stated that the alleged non-service of the proposed order entered on June 12, 2012 was part of “an actual pattern and practice by Judge Potter and [the Gray Firm], acting in concert, to effectuate a fraudulent foreclosure against Sheila M. Spencer and her home.” Ex. 20:4, ¶ 8; Tr. at 389:6-16.

30. In her “Continuing Objection,” Nora stated that the “ex parte order should never have been considered for signing by Judge Potter and now the entire record of the proceedings must be reviewed in the light of apparent collaboration between Judge Potter and [the Gray Firm].” Ex. 20:6, ¶ 11; Tr. at 390:3-14.

31. In her “Continuing Objection,” Nora stated the Gray Firm had engaged in “conniving to procure the June 12, 2012 ex parte order of Judge Potter to reverse what it perceived as a loss on the record of the May 23, 2012 proceedings.” Ex. 20:6, ¶ 12; Tr. at 390:20-391:1.

32. In her “Continuing Objection,” Nora stated that a complete review of the record was required “in light of apparent collaboration between Judge Potter and the lawyers from [the Gray Firm].” Ex. 20:6, ¶ 13; Tr. at 391:2-7.

33. In her “Continuing Objection,” Nora stated that:

Whereas it was first thought that Judge Potter was confused and was, as a result of pride, unable to admit to his confusion, it is now clear that Judge Potter is not confused but is actually participating in a manipulation of the proceedings to deny Sheila M. Spencer the opportunity to be heard in defense of her rights to her home.

Ex. 20:6, ¶ 14; Tr. at 391:8-17 (emphasis added).

34. In her “Continuing Objection,” Nora stated that:

The manipulation of the Transcript to remove some of the most damning evidence of bias ... discloses a whole new issue: that Judge Potter is complicit in the manipulation of the proceedings and of the record.

Ex. 20:6, ¶ 15; Tr. at 391:18-392:5 (emphasis added).

35. In her “Continuing Objection,” Nora stated that “the ‘civil filings’ clerk was participating in the scheme to deprive this counsel of copies of documents which she did not receive.” Ex. 20:6, ¶ 16; Tr. at 392:6-12.

36. In her “Continuing Objection,” Nora stated that Judge Potter had not removed himself from the case “because he is now being shown to be actively assisting” the Gary Firm. Ex. 20:7, ¶ 18; Tr. at 393:6-394:17.

37. In her “Continuing Objection,” Nora referred to Judge Potter as being “[c]omplicit in the long and convoluted proceedings whereby false documents and ex parte proceedings are the modus operandi of Gray & Associates, LLP supported by Judge Potter.” Ex. 20:7, ¶ 19; Tr. at 394:18-24.

38. Although Nora testified that she did not accuse Judge Potter of “turning a blind eye to crimes committed within the court process itself” (Tr. at 402:14-403:1), in her Continuing Objection Nora stated that:

Civil courts cannot be subverted by allowing crimes to go undetected by its officers, including Judge Potter and Sheila M. Spencer's counsel, and Judge Potter and counsel for Sheila M. Spencer cannot turn a blind eye to crimes to be committed within the court process itself.

Ex. 20:8, ¶ 25; Tr. at 402:14-403:1.

39. In her “Continuing Objection,” Nora stated that “Judge Potter has not seen

fit to recuse himself yet from these proceedings even after being exposed for ex parte communications and having presided over proceedings which bear no resemblance to proper, neutral court proceedings.” Ex. 20:9, ¶ 32; Tr. at 403:2-10.

40. In her “Continuing Objection,” Nora stated that Judge Potter “has continued to interfere with the just and proper administration of Wood County Circuit Court.” Ex. 20:9, ¶ 34; Tr. at 403:11-16.

41. In her “Continuing Objection,” Nora stated that Judge Potter “has clearly disqualified himself by his knowing complicity in the miscarriage of justice represented by the proceedings in this case, through ex parte orders and manipulations of the proceedings to do the bidding of [the Gray Firm].” Ex. 20:9, ¶ 35; Tr. at 403:17-404:4.

42. After hearing on August 8, 2012, Judge Potter denied Nora’s motion seeking his disqualification in the Spencer case. Ex. 21; Ex. 309; Tr. at 414:9-416:18.

43. On August 13, 2012, Nora filed the list of issues as directed by the court at the May 23, 2012 hearing. Ex. 7A; Tr. at 417:7-14.

44. In the list of issues, Nora repeats her allegations about ex parte communications between the Gray Firm and Judge Potter made in her June 27 “Affidavit of Non-Receipt,” in the June 28 motion seeking recusal of Judge Potter, and in the original and amended “Continuing Objection,” she had filed in the Spencer matter. Ex. 7A:6-10, ¶ 29; Exs. 13, 14, 19, 20; Tr. at 418:3-420:13.

45. On October 3, 2012, Attorney James Carrig first appeared for the plaintiff in the Spencer matter. Ex. 1:7 (Item 71); Tr. at 11:11-16.

46. On October 29, 2012, Carrig filed a notice of appearance for the plaintiff in

the Spencer matter. Ex. 1:7 (Item 72); Tr. at 11:18-12:2.

47. In response, Nora filed a motion to strike Carrig's notice of appearance. Ex. 1:7 (Item 74); Tr. at 12:3-24.

48. On December 5, 2012, the court conducted a hearing relative to Nora's objection to Carrig's appearance and to whether PNC Bank was a proper party to the Spencer case. Ex. 1:8 (Item 80); Tr. at 15:12-17:10.

49. On December 13, 2012, Carrig filed a motion to ratify the action or to substitute PNC Bank as the party plaintiff. Ex. 1:8 (Items 81-83); Tr. at 17:12-18:14.

50. On December 21, 2012, Nora filed a response to Carrig's motion to ratify or substitute PNC Bank as the plaintiff. Ex. 1:9 (Items 88, 89); Tr. at 17:12-18:14.

51. After hearing on December 21, 2012, Judge Potter granted the motion Carrig filed for PNC Bank and set a hearing date of March 18, 2013 for the pending motion for summary judgment. Ex. 1:8 (Item 86); Tr. at 20:4-21:20.

52. On January 10, 2013, Nora filed a notice of removal of the Spencer case to the United States District Court for the Western District of Wisconsin. Ex. 23; Tr. at 22:1-13.

53. Prior to removing the case to federal court, Nora did not file anything with the state court with respect to an entity referred to as "Freddie Mac." Tr. at 26:4-7.

54. Nora's notice of removal asserted that the Spencer case was removable under 28 USC secs. 1331, 1332, 1334 and 1349. Ex. 23:2.

55. On February 8, 2013, Carrig filed a motion on behalf of PNC Bank to remand the Spencer case to state court. Ex. 3:2; Ex. 24; Tr. at 26:20-28:20.

56. On March 4, 2013, Nora filed a brief opposing PNC Bank's motion to remand the Spencer case. Ex. 3:3; Ex. 25; Tr. at 28:21-29:23.

57. On March 25, 2013, United States District Court Judge Barbara Crabb issued an Opinion and Order granting PNC Bank's motion to remand and granting PNC Bank attorney fees and costs. Ex. 26; Tr. at 29:24-30:9.

58. On April 5, 2013, Carrig filed an itemized request for fees and costs for PNC Bank. Ex. 27; Tr. at 30:10-31:3.

59. On April 8, 2013, Nora filed a motion for reconsideration of Judge Crabb's March 25, 2013 Opinion and Order. Ex. 28; Tr. at 31:3-14.

60. Although she testified she did not file a motion for reconsideration of the remand order and only sought reconsideration of the award of attorney fees (Tr. at 689:13-690:8), forty-one of the forty-three numbered paragraphs of Nora's motion for reconsideration are devoted to asserting that Judge Crabb erred in remanding the Spencer case to state court. Ex. 28; Ex. 39:3.

61. The motion for reconsideration "requests that the court reconsider the Order remanding this case to state court entered on March 25, 2013 for its clear errors of law in failing to acknowledge and exercise its original jurisdiction" Ex. 28:8.

62. The motion for reconsideration was not limited to addressing the award of attorney fees and costs to PNC Bank. Ex. 28.

63. On April 15, 2013, Carrig filed a brief for PNC Bank opposing Nora's motion for reconsideration. Ex. 3:3 (Entry 19); Tr. at 32:6-17.

64. On April 15, 2013, Nora filed an Objection to Award of Attorneys' Fees

and Reply on Motion for Reconsideration. Ex. 20; Tr. at 31:15-25.

65. In her reply, Nora sought reconsideration of the decision to remand and asserted that “the remand is appealable as decided on grounds other than those set forth in 28 USC sec. 1447(c).” Ex. 29:6 (para. 18).

66. On May 23, 2013, Judge Crabb issued an Opinion and Order denying the motion for reconsideration, characterizing the motion for reconsideration as “frivolous,” and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 30:1, 7.

67. In the May 23, 2013 Opinion and Order, Judge Crabb held that the court lacked jurisdiction to reconsider the remand order. Ex. 30:2.

68. In the May 23, 2013 Opinion and Order, Judge Crabb held that because Spencer “did not have an objectively reasonable argument supporting federal jurisdiction, it is appropriate to award plaintiff fees incurred in its motion to remand.” Ex. 30:6.

69. On June 7, 2013, Nora filed a second motion for reconsideration of the award of attorney fees. Ex. 31; Tr. at 33:7-18.

70. In the second motion for reconsideration, Nora stated:

This Court determined that Ms. Spencer did not have the right to seek reconsideration of the Court’s Order remanding the case to the state foreclosure court entered on March 25, 2013 because the Court remanded the case under 28 USC sec. 1447(c) and is not appealable under 28 USC sec. 1447(d). The Court is wrong. On reconsideration it clearly elucidated that a part of its remand is based on abstention, as it had implied in the remand order.

Ex. 31:1 (emphasis added).

71. The second motion for reconsideration rehashes the same arguments Nora had asserted in her notice of removal. Exs. 23, 31.

72. On July 2, 2013, Judge Crabb issued an Opinion and Order denying the second motion for reconsideration and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 32; Tr. at 33:19-34:5.

73. On July 10, 2013, the United States District Court for the Western District of Wisconsin entered a judgment awarding \$875 to PNC Bank for costs and fees incurred in opposing the first motion for reconsideration. Ex. 33; Tr. at 34:6-20.

74. On July 10, 2013, Nora filed a notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013. Ex. 34; Tr. at 34:21-35:1.

75. In the notice of appeal, Nora identified herself as a defendant-appellant “individually and in her capacity as counsel for Sheila M. Spencer.” Ex. 34.

76. Nora filed nothing with the court seeking to be made a party to the case prior to filing the notice of appeal. Tr. at 35:2-9; Ex. 3.

77. Nora knew that remand orders were not appealable under Title 28 of the United States Code. Tr. at 693:20-25.

78. On July 30, 2013, the United States District Court for the Western District of Wisconsin entered an amended judgment awarding \$4,928.47 to PNC Bank for costs and fees incurred in opposing the removal. Ex. 35; Tr. at 35:12-36:1.

79. On July 31, 2013, Nora filed an amended notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013 and the judgment and the amended judgment entered by the Western District on July 10 and July 30, 2013, respectively. Ex. 36; Tr. at 36:2-13.

80. In the amended notice of appeal, Nora identified herself as a defendant-appellant “individually and in her capacity as counsel for Sheila M. Spencer.” Ex. 36.

81. Nora filed nothing with the court seeking to be made a party to the case prior to filing the amended notice of appeal. Tr. at 36:11-13.

82. On July 31, 2013, the United States Court of Appeals for the Seventh Circuit issued an order directing Nora and Spencer to file a memorandum stating why the appeal should not be dismissed for lack of jurisdiction. Ex. 4:3 (Entry 2).

83. On August 14, 2013, Nora filed a Jurisdictional Memorandum with the Seventh Circuit asserting that she had “the right and indeed the obligation to appear in her individual name and capacity as an aggrieved party.” Ex. 37:2.

84. In her Jurisdictional Memorandum, Nora stated that “Judge Crabb has engaged in a campaign of libel against Attorney Nora which will be addressed to the appropriate fora.” Ex. 37:3.

85. In her Jurisdictional Memorandum, Nora stated she was the real party in interest on the appeal because she was the “target” of the sanctions and she was “ethically required” to indemnify Spencer for the award of attorney fees and costs. Ex. 37:5.

86. On August 23 and September 10, 2013, Carrig filed memoranda for PNC Bank addressing jurisdiction as required by the Seventh Circuit. Ex. 4:3 (Entries 5-8); Tr. at 40:15-41:3.

87. Briefing on the Spencer appeal was delayed from October 23, 2013 to March 10, 2014, by reason of Nora filing a bankruptcy proceeding for Spencer. Ex. 43-4 (Entries 14-23); Tr. at 439:11-16.

88. After briefing and oral argument, on August 13, 2014, the Seventh Circuit issued its decision in the Spencer appeal. Ex. 4:4-5 (Entries 24-55); Ex. 39.

89. The Seventh Circuit dismissed Nora's appeal because she lacked standing to appeal, affirmed the district court's award of costs and attorney fees against Spencer because "there was no objectively reasonable basis for federal jurisdiction or removal," concluded the appeal was "frivolous," and ordered Nora to show cause "why she should not be sanctioned for pursuing this frivolous appeal." Ex. 39:3-4.

90. On August 15, 2014, Nora filed an initial response to the Seventh Circuit's order to show cause and asserted that "there are numerous factual findings which are not supported by any evidence in the record, for which judicial notice was not properly taken and which are offered to be proved to be clearly erroneous." Ex. 40:2; Tr. at 45:1-18.

91. Nora's "Initial Response" rehashes the same arguments she had advanced in the notice of removal, in the briefs she had filed with the district court, and in the jurisdictional memorandum. Exs. 23, 25, 28, 31, 37, 40.

92. In her "Initial Response," Nora asserted that Judge Crabb had removed the seal from her medical records in a matter arising out of her personal bankruptcy case (*In Re Nora*, No. 10-3131) and that "it was nonetheless libelous for Judge Crabb to do so." Ex. 40:6, 11; Tr. at 451:23-452:12.

93. Nora acknowledged that Exhibit 55 was a copy of the decision where Judge Crabb had removed the seal from her medical records. Tr. at 455:3-6.

94. Nora asserted that Judge Crabb was in contempt of an order of the Seventh Circuit when she removed the seal from the medical records. Ex. 54:1; Tr. at 456:7-16.

95. The basis for Judge Crabb removing the seal from Nora's medical records was that Nora did not file the documents under seal under a prior protective order and that Nora did not move to have the documents sealed until she brought a motion for contempt against opposing counsel in her bankruptcy case. Ex. 55:4.

96. On August 20, 2014, the Seventh Circuit issued an order directing that Nora file "one proper response" (Ex. 41:1) to the order to show cause addressing four issues, as follows:

- 1) Whether her removal of this case to federal court, the first motion to reconsider the removal, and the appeal of the order awarding fees and costs were frivolous;
- 2) Whether her appeal of the district court's award on her own behalf was frivolous, where she was not a party and the district court did not order her to pay anything;
- 3) Whether the removal of this case to federal court and this appeal were litigated for improper purposes, in particular, to unnecessarily delay the proceedings and to increase the cost of this litigation to her opponents; and
- 4) Whether the accusations she has leveled against her opponents and the courts during this case, including the comments described in this court's opinion, were appropriate advocacy.

Ex. 41:2 (citations omitted); Tr. at 41:20-42:12.

97. On September 2, 2014, Nora filed a petition for rehearing en banc before the Seventh Circuit rehashing all of the same arguments previously made in her filings in the Spencer case. Exs. 23, 25, 28, 31, 37, 40, 42; Tr. at 46:13-58:18.

98. On September 16, 2014, the Seventh Circuit denied the petition for rehearing en banc. Ex. 43; Tr. at 58:19-59:8.

99. On September 19, 2014, Nora filed a motion to stay proceedings before the Seventh Circuit in order to provide her an opportunity to file a petition for a writ of

certiorari with the United States Supreme Court. Ex. 44; Tr. at 59:9-23.

100. Nora never filed a petition for a writ of certiorari. Tr. at 464:21-466:25.

101. On September 19, 2014, Nora filed what was captioned a “Partial Response to Order to Show Cause” issued by the Seventh Circuit. Ex. 45; Tr. at 475:17-476:7.

102. In her “Partial Response,” Nora denied that she had accused the state court judge and court reporter in the Spencer case of “fraudulently manipulating transcripts.” Ex. 45:7; Tr. at 483:5-17.

103. In her “Partial Response,” Nora stated that “it is the courts themselves which are causing the undersigned’s clients and millions of others to despair and lose faith in the courts.” Ex. 45:11; Tr. at 486:15-21.

104. In her “Partial Response,” Nora stated:

By treating the undersigned as an enemy of the courts ... courts in this circuit are violating the first paragraph of the Preamble of the Standards of Conduct Within the Seventh Circuit by attempting to punish the vigorous defense of homeowners.

Ex. 45:11; Tr. at 486:22-487:8.

105. In her “Partial Response,” Nora refused to withdraw her accusation that opposing counsel had engaged in civil fraud and racketeering. Ex. 45:12; Tr. at 490:3-20.

106. In her “Partial Response,” Nora stated, “The bias of this panel and many of the judges in this circuit against homeowners’ rights to be heard and defend their homes is apparent in every disputed sentence of the ‘findings’ in the panel’s decision.” Ex. 45:13; Tr. at 491:1-8.

107. In her “Partial Response,” Nora characterized a number of statements in the

court's opinion on the Spencer appeal as "false." Ex. 45:13-14; Tr. at 491:9-493:4.

108. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had accused the Judge Potter, PNC's lawyers, and the court clerk of colluding to conceal the contents of a court order and that she had demanded that Judge Potter recuse himself. Ex. 45:15; Tr. at 495:4-24.

109. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had accused the court reporter of intentionally manipulating a hearing transcript at Judge Potter's direction. Ex. 45:15; Tr. at 498:10-499:10.

110. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had moved to strike an opposing attorney's appearance because the case caption improperly identified PNC as a party. Ex. 45:16; Tr. at 499:24-501:13.

111. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that in December 2012 the state court scheduled a summary judgment hearing for next March. Ex. 45:16.

112. In her "Partial Response," Nora repeated her assertion that Judge Crabb was "engaging in a campaign of libel" against her. Ex. 45:7.

113. On October 2, 2014, the Seventh Circuit entered an order awarding PNC Bank \$25,295.00 for attorney fees and \$349.67 for costs. Ex. 46; Tr. at 503:14-504:24.

114. On October 3, 2014, Nora filed a letter of supplementary authority relative to the order to show cause. Ex. 47; Tr. at 504:25-505:8.

115. On October 17, 2014, Nora filed a motion to continue the show cause hearing for medical reasons. Ex. 48; Tr. at 505:9-24.

116. On October 21, 2014, the Seventh Circuit entered an order denying Nora's motion for a continuance but allowing her to appear by speakerphone. Ex. 49; Tr. at 505:25-506:14. On October 28 2014, Nora appeared in person for the hearing. Ex. 50:3.

117. On February 11, 2015, the Seventh Circuit sanctioned Nora the sum of \$2,500 for frivolous and needlessly antagonistic filings. Ex. 50:4; Tr. at 506:15-23.

118. The Seventh Circuit's opinion states that contrary to its direction that Nora limit herself to "one proper response to the show-cause order ... Nora did not limit herself to one proper response." Ex. 50:2.

119. The Seventh Circuit's opinion describes Nora's petition for rehearing en banc as "rehashing her frivolous appellate arguments." *Id.*

120. The Seventh Circuit's opinion states that "[i]n responding to our earlier opinion, Nora has dug in her heels and continues to press the same arguments that were thoroughly rejected in the district court and our earlier opinion." Ex. 50:3.

121. In addressing its concerns about Nora engaging in "conduct unbecoming a member of the court's bar," the Seventh Circuit stated that:

Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions.

Ex. 50:3 (emphasis added).

122. On March 10, 2014, prior to filing her responses to the order to show cause, Nora had filed an amended second motion to disqualify Judge Potter and argued the motion on March 19, 2014. Ex. 1:16-17 (Items 163-72); Tr. at 123:25-125:25.

123. At the March 19, 2014 hearing, Judge Potter denied the second motion to disqualify and granted PNC's motion for summary judgment. Ex. 1 (Item 172); Ex. 51; Tr. at 64:13-65:5.

124. On August 20, 2014, the Wood County Circuit Court entered a written order granting judgment of foreclosure and sale to PNC Bank in the Spencer matter, denying the second motion to disqualify Judge Potter, and dismissing Spencer's counterclaim. Ex. 1 (Item 186); Ex. 51; Tr. at 64:13-65:5.

125. A sheriff's sale was conducted in the Spencer matter and the sale was confirmed by the Wood County Circuit Court. Tr. at 65:17-21.

126. Nora filed appeals for Spencer from the judgment of foreclosure and sale and from the confirmation of sale. Tr. at 65:14-24.

127. By opinions issued May 16, 2016, the Wisconsin Court of Appeals affirmed the judgment of foreclosure and sale and the confirmation of sale entered by the Wood County Circuit Court. Exs. 52, 53; Tr. at 65:25-66:17.

128. None of the attorney fees and costs awarded by the Seventh Circuit and by Judge Crabb in the Spencer matter have been paid. Tr. at 60:17-81:2.

B. Nora Violated SCR 20:3.1(a) By Removing The Spencer Matter To Federal Court And By Moving To Reconsider Judge Crabb's Decision Remanding The Matter.

1. Count One Allegations.

Paragraph 61 of the Complaint alleges that:

By removing a state court foreclosure matter to the federal court after four years of litigation when there was no colorable basis for federal jurisdiction, and, by filing a frivolous motion to reconsider the order remanding the matter back to the state court, Nora violated SCR 20:3.1(a).

R. 110:15.²

2. Applicable Law.

SCR 20:3.1(a) provides that:

In representing a client, a lawyer shall not:

(1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;

(2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or

(3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.

OLR bears the burden of demonstrating by clear, satisfactory and convincing evidence that the respondent has engaged in misconduct. SCR 22.16(5).

The findings and conclusions of Judge Crabb and the Seventh Circuit that Nora engaged in frivolous litigation may not be collaterally attacked in this disciplinary case.

Disciplinary Proceedings Against Widule, 2003 WI 34, ¶ 26, 261 Wis. 2d 45, 660

² OLR filed the Second Amended Complaint on August 18, 2016, in accordance with the Referee's Order dated August 17, 2016. The Second Amended Complaint is designated item 110 in the court's record index for this matter. The Order is designated item 116 in the record index.

N.W.2d 686. Alleged violations of SCR 20:3.1(a)(1) and (2) are determined under a subjective standard. *Disciplinary Proceedings Against Osicka*, 2009 WI 38, ¶ 42, 317 Wis. 2d 135, 765 N.W.2d 775. As to these subsections, OLR must show that Nora knew the claim or factual position she was advancing was unwarranted. *Id.*, ¶ 43. On the other hand, violations of SCR 20:3.1(a)(3) “are subject to an objective standard.” *Disciplinary Proceedings Against Bach*, 2016 WI 95, ¶ 27, 372 Wis. 2d 187, 887 N.W.2d 335.

3. Analysis.

Clear and convincing evidence supports Count One, whether Nora’s conduct is analyzed under subsections (1)(2) or (3) of SCR 20.3.1(a). In awarding costs and fees to PNC on the motion for remand, Judge Crabb and the Seventh Circuit concluded that there was no “objectively reasonable basis” under 28 U.S.C. § 1447(c) for removal. *See* Spencer Facts³ (“SF”), ¶¶ 68, 89. That conclusion alone comes very close to establishing that Nora violated SCR 20:3.1(a)(3) by filing the notice of removal. *See, e.g., Faust v. Menard, Inc.*, 2012 WL 4815415 at 2 (N.D.Ind. 2012)⁴ (“It is hard to see how the standard under § 1447(c), requiring the basis for removal to be objectively reasonable, differs from the Rule 11 standard requiring the position taken to be warranted by existing law or a good-faith argument to change existing law.”). But the courts did not stop there. Judge Crabb concluded Nora’s motion for reconsideration was “frivolous” (SF, ¶ 66), and the Seventh Circuit agreed and also concluded that Nora’s appeal from Judge Crabb’s orders was “frivolous” (SF, ¶ 89).

³ “Spencer Facts” refers to the numbered paragraphs within Part I.A. of this brief above.

⁴ A copy of the *Faust* decision is attached as **Appendix 1** to this brief.

Under SCR 20:3.1(a)(3), it was obvious that Nora's conduct would serve merely to harass or maliciously injure PNC. Every one of Nora's frivolous filings necessitated a response by the plaintiff bank, causing it to incur significant costs and fees. While both Judge Crabb and the Seventh Circuit awarded costs and fees to the bank, the costs and fees were never paid. SF, ¶¶ 25, 66, 72, 73, 78, 89, 113, 126. Nora's meritless, harassing litigation tactics were a continuing theme from the moment she appeared for Spencer in the Wood County Circuit Court, including: her accusations that Judge Potter colluded, collaborated, participated or acted in concert with the Gray Firm to manipulate the proceeding to effectuate a fraudulent foreclosure (SF, ¶¶ 20, 29, 30, 33); her demands that Judge Potter recuse based on groundless accusations of ex parte communications and collusion with the Gray Firm (SF, ¶¶ 12-14, 17-18, 21-26, 39, 41, 121); and her objection to Attorney Carrig's mere filing of a notice of appearance (SF, ¶ 47).

If the subjective standard mandated by SCR 20:3.1(a)(1) or (2) applies, the clear and convincing evidence standard is still met. "Intent is a fact that 'must be inferred from the acts and statements of the person, in view of the surrounding circumstances'." *Welytok v. Ziolkowski*, 2008 WI App 67, ¶ 26, 312 Wis. 2d 435, 752 N.W.2d 359, quoting *Pfeifer v. World Serv. Life Ins. Co.*, 121 Wis. 2d 567, 569, 360 N.W.2d 65 (Ct.App. 1984). See also SCR 20:1.0(g) ("A person's knowledge may be inferred from circumstances.") Nora's intent should be determined on the basis of her actions, including her written statements in the action, viewed in light of her substantial experience.

At the time she filed the removal, Nora had been licensed to practice law for close to 40 years. Tr. at 309:8-10; Exs. 77, 78, 79. She had experience in foreclosure defense

since the 1980s. Her filings in both the Spencer and Rinaldi matters display an arrogant belief in her superior knowledge of the law – she asserts the judges got it wrong at every turn. Tr. at 494:25-495:4, 540:14-21. Nora was not a “new and very inexperienced lawyer with overzealous goals, who plunged herself, unprepared, into filing federal court actions and subsequent appeals.” *Bach*, 2016 WI 95, ¶ 29. Nora was very experienced, well prepared, and knew exactly what she was doing.

Given that the grounds she advanced for removal were abjectly meritless, it is impossible to believe that Nora subjectively believed in good faith that the case was removable. Moreover, removal was not consistent with what Nora claimed was Spencer’s purported concern, which she described as follows:

I talked it over with Ms. Spencer, who was a law student, and a very devout Christian, believes right and wrong and, you know, wants to do the right thing. She and I were both concerned that it appeared to us that someone was trying to, for lack of a better term and to be colloquial, make off with Freddie Mac’s collateral.

Tr. at 638:6-12. Nora claimed all Spencer ever wanted to do was “make her mortgage payments.” Tr. at 648:17-24. Nora also claimed that her purpose in the removal was to call the attention of the federal court as “the venue which would be most able to protect the United States taxpayers.” Tr. at 689:20-21.

Those purposes could have been accomplished without removal to federal court. If there actually was a concern that someone was “trying ... to make off with Freddie Mac’s collateral,” Nora could have reported this supposed concern to Freddie Mac or the United States Attorney’s Office. She did neither. Tr. at 801:15-802:20. Nora could have sought to substitute Freddie Mac as the plaintiff if she believed that it was the real party in

interest. See Wis. Stat. § 803.01. Nora did not. SF, ¶ 53. And if all Spencer wanted to do was make her mortgage payments, Nora would not have filed counterclaims accusing PNC of “felony racketeering.” Ex. 40:10, ¶ 18, Tr. at 449:15-450:6.

As for the motion for reconsideration, Nora knew the motion was meritless. Nora admits she knew the remand order could not be reviewed, whether on reconsideration or appeal. SF, ¶¶ 60, 65, 77. Her assertion at trial that she was only seeking to challenge the award of fees and costs to PNC Bank is belied by the content of the motion itself; forty-one of its forty-three paragraphs consist of heated rhetoric asserting that Judge Crabb erred in remanding the matter – reasserting the same arguments Judge Crabb had already rejected. SF, ¶¶ 60, 65, 89; See Exs. 23, 28. Judge Crabb plainly did not read the motion as merely seeking reconsideration of the fee award. Accordingly, Judge Crabb denied the motion for reconsideration, and concluded the motion was frivolous. SF, ¶ 66.

Clear and convincing evidence establishes that Nora violated SCR 20:3.1(a) by her conduct in removing the Spencer matter to federal court and by filing the frivolous motion for reconsideration of Judge Crabb’s remand order.

C. Nora Violated SCR 20:3.2 By Filing A Frivolous Appeal And By Engaging In An Ongoing Pattern Of Conduct To Harass The Other Parties And Judicial Officers And Delay The Spencer Proceedings.

1. Count Two Allegations.

Paragraph 62 of the Complaint alleges that:

By filing a frivolous appeal on behalf of her client and herself when she was not a party to the litigation, and, by engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 20:3.2.

R. 110:15.

2. Applicable Law.

SCR 20:3.2 provides that “[a] lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.” The American Bar Association comment to the rule states that:

Dilatory practices bring the administration of justice into disrepute. Although there will be occasions when a lawyer may properly seek a postponement for personal reasons, it is not proper for a lawyer to routinely fail to expedite litigation solely for the convenience of the advocates. Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party’s attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.

The court has relied on this comment in construing SCR 20:3.2. *Disciplinary Proceedings Against Arthur*, 2005 WI 40, ¶ 60, 279 Wis. 2d 583, 694 N.W.2d 910.

3. Analysis.

Nora’s pattern of filing motions for no discernable purpose other than delay and harassment in the Spencer matter began from the moment she got involved in the case in early May 2012. Her first, on the surface seemingly innocent, effort was to derail the scheduled summary judgment hearing by persuading Judge Potter to give her an opportunity to file a list of issues by June 29, 2012. SF, ¶¶ 2-3.

But rather than comply with the scheduling order, Nora instead filed the Notice of Non-Receipt and supporting affidavit, and the Notice and Amended Notice of Continuing

Objection, making preposterous and groundless allegations of misconduct against Judge Potter in an effort to force his recusal from the case, causing further delay.⁵ SF, ¶¶ 4-41.

Nora's list of issues filed on August 14, 2012, set forth a number of groundless defenses, including a repetition of the groundless allegations against Judge Potter. Again, this necessitated a response by the plaintiff and delay in the progress of the case.

Nora's "object-to-everything litigation strategy and ... blizzard of motions" (Ex. 39:2) was next illustrated by her objection to the notice of appearance filed by Attorney Carrig. SF, ¶¶ 45-47. Nora also characterized the Seventh Circuit's statement about her motion to strike as "false." Ex. 39:2; SF, ¶ 110.

Nora filed the notice of removal after the court granted the relief sought by PNC Bank (to amend the caption to name PNC as the plaintiff), denied her motion to strike Carrig's appearance, and re-scheduled the summary judgment hearing for March 18, 2013. SF, ¶ 51. The removal tactic, combined with another series of delaying tactics upon remand back to state court, resulted in a one-year delay before the court eventually heard and granted PNC's summary judgment motion on March 19, 2014. SF, ¶ 122.

As for the appeal from Judge Crabb's remand order, the Seventh Circuit found the appeal frivolous and sanctioned Nora for the frivolous appeal. SF, ¶¶ 89, 116. The appeal was frivolous in two respects. One, Nora unilaterally inserted her name as a party in the caption of the case without obtaining leave of court, and the Seventh Circuit concluded that Nora had no standing to appeal. Two, as the court observed, Nora "never presented

⁵ Exhibit 309, the transcript of the August 8, 2012 hearing on Nora's demands for Judge Potter's recusal, an exhibit Nora offered into the record, only underscores that Nora's allegations of misconduct and bias against Judge Potter were utterly without foundation in fact.

any colorable basis for federal jurisdiction over this years-old state-court foreclosure case,” leading the court to suspect that “the removal was part of a strategy designed to gum up the progress of the case.” Ex. 39:3.

Nora’s pattern of conduct leaves little room for doubt. Nora violated SCR 20:3.2 by a pattern of conduct, her blizzard of groundless, harassing motions in the state court case, capped by her frivolous removal of the case to federal court and the frivolous appeal of Judge Crabb’s decision remanding the case to state court.

D. Nora Violated The Attorney’s Oath By Engaging In An Ongoing Pattern Of Conduct To Harass The Other Parties And Judicial Officers And Delay The Spencer Proceedings

1. Count Three Allegations.

Paragraph 63 of the Complaint alleges that:

By engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 40.15 enforceable via SCR 20:8.4(g).

R. 110:15.

2. Applicable Law.

SCR 40.15 provides in relevant part that:

I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land; ... I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged...

In turn, SCR 20:8.4(g) provides that “[i]t is professional misconduct for a lawyer to violate the attorney’s oath.”

“[A] lawyer may violate the Attorney's Oath by conduct that occurs out of court as well as by in-court conduct.” *Disciplinary Proceedings Against Sommers (“Sommers II”)*, 2014 WI 103, ¶ 27, 358 Wis. 2d 248, 851 N.W.2d 458.⁶ In *Sommers II*, 358 Wis. 2d 248, 851 N.W.2d 458, the court held that an attorney’s “sweeping assertion that ‘judges are permitted to get away with falsifying the record’ reflect[ed] outspoken contempt for the entire court system” violative of “that portion of the Attorney’s Oath requiring an attorney licensed by this court to maintain the respect due to courts and judicial officers.” 2014 WI 103, ¶ 29. In a prior related case, the court held that the Attorney Sommers’ “outburst” directed against the judge in a criminal case “greatly demeaned the dignity of the court and fell far short of his ethical obligation to maintain the respect due to courts and judicial officers” and thereby violated the Attorney’s Oath. *Disciplinary Proceedings Against Sommers (Sommers I’)*, 2012 WI 33, ¶ 66, 339 Wis. 2d 580, 811 N.W.2d 387.

3. Analysis.

The evidence supporting Count Three is not merely clear and convincing, it is overwhelming. Throughout the Spencer matter, Nora displayed in a continuous pattern of disrespect to both the state court and the federal courts.

Nora twice sought to disqualify Judge Potter on the basis of groundless claims of misconduct and bias, by the following conduct described in the Spencer Facts above:

- Nora stated Judge Potter had repeatedly engaged in or facilitated ex parte communications and entered ex parte orders. SF, ¶¶ 13, 27.

⁶ In *Disciplinary Proceedings Against Beaver*, 181 Wis. 2d 12, 23, 510 N.W.2d 129 (1994), the court listed a number of cases where it determined that an attorney’s conduct constituted “offensive personality” in violation of the Attorney’s Oath.

- Nora stated there was a “reasonable inference” that Judge Potter had colluded with the Gray Firm “to circumvent proper practice and procedure by engaging in and facilitating ex parte communications.” SF, ¶ 20.
- Nora stated there was an “actual pattern and practice by Judge Potter and [the Gary Firm] acting in concert, to effectuate a fraudulent foreclosure against Sheila M. Spencer and her home.” SF, ¶ 29.
- Nora stated the entire record should be reviewed in “light of apparent collaboration between Judge Potter and [the Gray Firm].” SF, ¶¶ 30, 32.
- Nora stated “it is now clear that Judge Potter is not confused but is actually participating in a manipulation of the proceedings to deny Sheila M. Spencer the opportunity to be heard in defense of her rights to her home.” SF, ¶ 33.
- Nora stated Judge Potter was “complicit in the manipulation of the proceedings and of the record.” SF, ¶ 34.
- Nora stated Judge Potter was “presiding over these bizarre and convoluted proceedings” and that Judge Potter was “now being shown to be actively assisting” the Gary Firm. SF, ¶ 36.
- Nora stated Judge Potter was “[c]omplicit in the long and convoluted proceedings whereby false documents and ex parte proceedings are the modus operandi of [the Gray Firm] supported by Judge Potter.” SF, ¶ 37.
- Nora suggested Judge Potter was “turning a blind eye to crimes committed within the court process itself.” SF, ¶ 38.
- Nora stated “Judge Potter has not seen fit to recuse himself yet from these proceedings even after being exposed for ex parte communications and having presided over proceedings which bear no resemblance to proper, neutral court proceedings.” SF, ¶ 39.
- Nora stated Judge Potter “has continued to interfere with the just and proper administration of Wood County Circuit Court.” SF, ¶ 40.
- Nora stated Judge Potter “has clearly disqualified himself by his knowing complicity in the miscarriage of justice represented by the proceedings in this case, through ex parte orders and manipulations of the proceedings to do the bidding of [the Gray Firm] with bias [and] prejudice.” SF, ¶ 41.

Nora made these accusations against Judge Potter based on her allegation that on four occasions Judge Potter had participated in or permitted ex parte communications with the Gray Firm. SF, ¶¶ 11, 17. However, on each of these occasions, either Nora or Spencer was shown as copied on the communications to the court. SF, ¶¶ 16, 23-25. Even assuming the dubious proposition that Nora and Spencer did not receive copies of the documents, Nora never explained how Judge Potter knew or should have known that Nora or Spencer did not receive copies – as shown by the face of the documents filed with the court. Not a shred of competent evidence supported Nora’s preposterous and disrespectful claims of misconduct with respect to alleged ex parte communications. Much less did Nora have even a shred of evidence to support her accusation that Judge Potter was colluding or acting on concert with the Gray Firm and otherwise manipulating the proceedings to effect a “fraudulent foreclosure.”

Nora also displayed general disrespect for the state court by the following comments:

- She referred to the Spencer proceeding as a “mockery of justice” and as “these misbegotten proceedings.” SF, ¶14.
- She referred to the alleged ex parte communication regarding the June 12 order as “another example of the improper practices in these proceedings.” SF, ¶18.
- She stated that “the secret proceedings held in this matter constitute a miscarriage of justice.” SF, ¶ 19.
- She stated that the court’s clerk was “participating in the scheme to deprive this counsel of copies of documents which she did not receive.” SF, ¶ 35.

Nora did not confine her disrespect to the state court. In her appeal from Judge Crabb’s orders remanding the case to state court and awarding costs and fees to PNC, Nora accused Judge Crabb of engaging in a “campaign of libel” against her and accused

Judge Crabb of being in contempt of the Seventh Circuit for her decision in Nora's bankruptcy case regarding Nora's medical records. SF, ¶¶ 84, 92-95, 112. After the Seventh Circuit affirmed Judge Crabb's orders in all respects and found the appeal frivolous, Nora turned her wrath on that court, accusing it of bias against homeowners and characterizing as "false" parts of the court's description of her conduct in the state court case. SF, ¶¶ 103-04, 106-11. The record, however, fully supports the Seventh Circuit's description of Nora's conduct in the state court case. The only thing worthy of the appellation "false" is Nora's dispute of the accuracy of the Seventh Circuit's opinion.

In *Sommers I*, the court concluded that the following statements by Attorney Sommers violated the Attorneys' Oath:

- "I believe it is my opinion that this Court is absolutely determined not to give him a fair trial in order to cover up for the State."
- "And everybody has been orchestrated throughout this proceeding to cut it off at that moment. You cut it off right now at that moment. You've cut everything off, everything in this case is done to keep the cover-up going. That's my belief."
- "I believe that your intention in this trial is to do everything that you can, because apparently, Judge, it's just too dirty, you can't take it."
- "But I think right now he has—I believe I owe it to him. I believe they're trying to railroad you like you never tried to railroad somebody in Dane County."
- "You go out of your way—Even today you go out of your way as much as you can just to ignore it—to have tunnel vision and say we can't acknowledge it, ... Why do you refuse to do it?"
- "Why don't you just be honest and say: You know what, we don't care folks, we don't care. These people matter. They're the club. They're powerful. They matter. Adam Raisbeck doesn't count. Why don't you be—Why don't just you [sic] be honest about it, damn it?"
- "And I bet if you took a poll in here, everybody would say this is a kangaroo court."
- "What I'm saying is, though, that basically it comes down to it—This is—I guess I'm more accusing you of a lack of nerve."

So I guess if it sounds better, it's better. But I'm accusing you of a lack of nerve. I'm accusing you of the lack of nerve to basically have the courage to come to terms with what has happened and to even enforce your own orders."

Sommers I, 2012 WI 33, ¶ 62. *See Id.*, ¶ 66 (Sommers' "outburst greatly demeaned the dignity of the court and fell far short of his ethical obligation to maintain the respect due to courts and judicial officers").

Here, Nora took it multiple steps further. She did not confine her comments to one hearing. She filed multiple written motions and objections accusing Judge Potter of more than a lack of courage on the bench; she accused him of actively assisting the Gray Firm in orchestrating what she called a fraudulent foreclosure. Nora did not stop there, but carried with similar groundless allegations against Judge Crabb and the Seventh Circuit. Nora's disrespectful comments directed to the courts constituted an ongoing pattern of conduct designed to harass the other parties and judicial officers and delay the proceedings, thereby violating SCR 40.15, enforceable through SCR 20:8.4(g).

II. CLEAR, SATISFACTORY AND CONVINCING EVIDENCE SUPPORTS THE COUNTS ARISING OUT OF THE RINALDI MATTER.

A. Facts Regarding Rinaldi Matter ("Rinaldi Facts").

1. On February 3, 2009, HSBC Bank USA ("HSBC") filed an action in the Circuit Court for Kenosha County against Roger and Desa Rinaldi relative to a note and mortgage executed by Roger Rinaldi, Case No. 2009CV353. *See* Ex. 57:1 (Item 1); Ex. 302; Tr. at 181:15-184:4, 517:14-25.

2. In Case No. 2009CV353, the court granted judgment of foreclosure and sale in favor of HSBC and dismissed the Rinaldis' counterclaims. Ex. 57:7-8 (Items 65,

73, 43); Tr. at 183:21-186:5.

3. After the Rinaldis' motion for reconsideration was denied, the judgment was vacated and case dismissed based on a loan modification agreement with the Rinaldis. Ex. 57:11 (Items 95-98); Tr. at 186:7-188:15.

4. On June 10, 2011, the Rinaldis commenced a lawsuit in the Circuit Court for Kenosha County, Case No. 2011CV1477 against, among others, Wells Fargo Bank, N.A. ("Wells Fargo") and the Gray Firm. Ex. 58:1; Tr. at 188:16-190:9.

5. Nora first appeared for the Rinaldis in Case No. 2011CV1477 by filing a notice of appearance on August 30, 2011. Ex. 58:3 (Item 29); Tr. at 190:14-22.

6. Motions to dismiss filed by certain defendants were pending when Nora first appeared in the case. Ex. 58:2 (Item 16); Tr. at 191:23-192:4.

7. On September 7, 2011, Nora filed a motion to dismiss without prejudice on behalf of the Rinaldis. Ex. 58:4 (Item 30); Tr. at 192:6-193:6.

8. The motions to dismiss were not heard by the court due to a bankruptcy filing made by the Rinaldis on October 14, 2011. Ex. 58:2 (Item 41); Tr. at 193:8-21.

9. Nora appeared for the Rinaldis in their bankruptcy case. On June 14, 2012, Nora filed an objection to the proof of claim filed by HSBC relative to the Rinaldi note and mortgage. Ex. 59:16-17 (Entry 77); Ex. 65:3.

10. On June 17, 2012, Nora filed an adversary proceeding on behalf of the Rinaldis asserting fraud and racketeering claims against, among others, HSBC, Wells Fargo, the Gary Firm and certain of its lawyers, and the law firm of Litchfield Cavo and Attorney Markvart, a Litchfield attorney who had appeared for Wells Fargo in Case No.

2011CV1477. Ex. 60:1; Tr. at 193:16-197:1, 197:22-198:9.

11. In challenging a proof of claim filed by HSBC, Nora asserted:

... objections to the claim includ[ing] that the Note lacks consideration; two mortgage assignments are null and void; another mortgage assignment is a forgery or unenforceable because it was not recorded or perfected prior to bankruptcy; HSBC is not the owner or holder of the Note; and the Note image attached to the claim was fabricated to deceive the Court. Along with disallowance of the claim and the security represented by the Mortgage, the Debtors seek a determination that the proof of claim is false, fraudulent and unlawful.

Ex. 65:5.

12. In the adversary proceeding, Nora asserted claims against the defendant banks and their counsel, including common law fraud, abuse of legal process and violations of the Fair Debt Collections Practices Act (“FDCPA”), violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), breach of contract and tortious interference with prospective economic opportunity. Ex. 65:5.

13. On February 22, 2013, Bankruptcy Judge Susan Kelley issued a decision relative to the Rinaldis’ objection to the proof of claim and defendants’ motions to dismiss the adversary proceeding. Ex. 65:3-4; Tr. at 198:10-17, 203:3-21.

14. Judge Kelley rejected the Rinaldis’ objections to HSBC’s proof of claim, including objections predicated on an allegation that defendants produced a “forged endorsement to the mortgage note robo-stamped bearing the signature of Joan M. Mills to mislead this court into believing that the note had been timely, properly and authentically endorsed in blank after the commencement of [the foreclosure action].” Ex. 65:13-18.

15. Judge Kelley rejected Rinaldis’ claims asserted in the adversary proceeding

and recommended that the district court dismiss the claims. Ex. 65:18-33.

16. In rejecting the objections and claims asserted by Nora in the bankruptcy case and in the adversary proceeding, Judge Kelley characterized some of the arguments as frivolous (Ex. 65:13, 21) and preposterous (Ex. 65:29).

17. Nora filed an appeal from Judge Kelly's decision as to the objection to the proof of claim and an objection to Judge Kelley's recommendation in the adversary proceeding. The appeal and objection were consolidated and the matter was assigned to District Court Judge J. P. Stadtmueller. Ex. 61:4-5 (Entries 2, 5); Tr. at 196:16-197:8.

18. By order dated October 31, 2013, Judge Stadtmueller affirmed Judge Kelley's decision with respect to the proof of claim and adopted Judge Kelley's proposed findings of fact and conclusions of law regarding the adversary proceeding. Ex. 61:7 (Item 32); Ex. 66:20-21; Tr. at 203:22-204:12.

19. Judge Stadtmueller held that Nora failed to comply with the Federal Rules of Bankruptcy Procedure governing appeals. Ex. 66:8-10.

20. Judge Stadtmueller's opinion states that "debtors failed to provide a cogent statement of the issues on appeal and also provided briefs that are largely unintelligible" (Ex. 66:11) and describes the debtors' submissions as "an unfocused, stream-of-consciousness-style recitation of general grievances the debtors have asserted in various forms since the origination of this litigation in state court" (Ex. 66:14).

21. Judge Stadtmueller held that any issues as to the assignment of mortgages did not affect HSBC's rights as to the holder of the note. Ex. 66:12-13.

22. Regarding the Rinaldis' racketeering claim, Judge Stadtmueller held that

Rinaldis had no injury in fact since they were still living in the residence and did not owe any money beyond that set forth in the mortgage which they agreed to pay. Ex. 66:15.

23. Judge Stadtmueller stated that debtors' activity "has quite obviously been vexatious and time-and resource-consuming; but, more concerning is the fact that their submissions to the Court are nigh-unintelligible." Ex. 66:19.

24. Judge Stadtmueller also stated that:

Seeing as the debtors' claims are generally meritless, the Court is concerned that the debtors are simply attempting to further stay the defendants' foreclosure of their home. In that case, the abuse of process charges alleged by the debtors against the defendants would actually lie much more appropriately against the plaintiffs.

Ex. 66:19-20.

25. Judge Stadtmueller also stated that:

The debtors are hereby warned, however, that they will find themselves in very deep trouble if additional meritless filings find their way to this Court (seeing as this Court has already had the responsibility of dealing with their all-but-frivolous filings in Case No. 12-CV-1065) and may very well result in significant sanctions.

Ex. 66:20.

26. On November 11, 2013, Nora filed a motion to amend or alter the findings of fact, conclusions of law and judgment entered by Judge Stadtmueller. Ex. 61:7 (Item 34); Ex. 67; Tr. at 204:13-25.

27. Nora's motion to alter or amend asserted the same kind of arguments that they had previously presented to Judge Kelley and Judge Stadtmueller addressing alleged fraud or forgeries in assignments of the Rinaldi mortgage, including the mortgage "purportedly endorsed by Joan M. Mills as Vice President of Wells Fargo." Ex. 67:2-4.

28. The banks and defendants in the adversary proceeding filed a response to the motion to amend or alter. Ex. 61:7 (Items 35, 36); Tr. at 205:1-12.

29. On December 13, 2013, Judge Stadtmueller entered an order denying the motion to amend or alter. Ex. 61:7 (Item 37); Ex. 68; Tr. at 205:13-23.

30. In the order denying the motion to amend or alter, Judge Stadtmueller stated that:

... the Rinaldis fail to identify any manifest error of law or fact, intervening change in law, or newly-discovered evidence that would entitle them to relief under Rule 59(e). ... Their arguments at this stage largely derive from perceived factual errors, which were not relevant to the Court's analysis and were not in error, and alleged legal errors, which are simply rehashings of the same meritless arguments raised before. The Court is, therefore, obliged to dismiss the Rinaldis' motion to amend.

With this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney.

Ex. 68:3 (citations omitted).

31. On December 23, 2013, Nora filed a notice of appeal of the orders entered by Judge Stadtmueller on October 31, 2013 and December 13, 2013. Ex. 61:7 (Entry 38); Ex. 69; Tr. at 205:24-206:7.

32. On February 11, 2014, Nora filed a motion to withdraw as Rinaldis' counsel in the Bankruptcy Court, the District Court and the Seventh Circuit. Ex. 59:30 (Entry 148); Ex. 61:8 (Entry 44); Ex. 62:4 (Entry 8); Ex. 72; Tr. at 206:8-207:10.

33. On March 4, 2014, Judge Kelley heard Nora's motion to withdraw in the bankruptcy case in conjunction with hearing a motion by the United States Trustee to dismiss the Rinaldis' bankruptcy case for failure to make payments. Ex. 59:30-31

(Entries 146, 153); Ex. 71; Tr. at 207:11-208:18.

34. In an oral ruling on March 4, 2014, Judge Kelley dismissed the bankruptcy case but retained jurisdiction over motions for sanctions filed by defendants in the Adversary Proceeding. Ex. 59:30-31 (Entries 153, 155); Ex. 71.

35. In an order entered March 5, 2014, Judge Kelley confirmed her oral ruling of March 4, 2014, and denied a motion for reconsideration Nora had filed with respect to Judge Kelley's opinion that dismissal of the case would moot the appeal Nora had filed for the Rinaldis. Ex. 59:30-31 (Entries 146, 154, 155); Exs. 70, 71.

36. Nora's motion for reconsideration in the bankruptcy case repeated the same arguments previously made based on an alleged "forged endorsement" and stated that "the Rinaldis have decided not to engage in litigation of their new issues in this Court and wish to be set free from the underlying bankruptcy" Ex. 70:2-3.

37. On April 2, 2014, Nora filed a motion to intervene personally in the Rinaldi case before Judge Stadtmueller. Ex. 61:9 (Entry 46); Ex. 73; Tr. at 209:9-210:3.

38. On April 2, 2014, Nora filed a joint motion for the Rinaldis and herself as the proposed intervenor in the case before Judge Stadtmueller seeking relief under Federal Rule of Civil Procedure 60 from the orders from the October 31 and December 13, 2013. Ex. 61:9 (Entry 47); Ex. 74; Tr. at 212:12-23.

39. In the motion to intervene, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 73.

40. In the motion to intervene, Nora asserted a right to intervene in order to

defend the motions for sanctions filed by the banks and defendants in the adversary proceeding. Ex. 73:2, 15.

41. In the motion for relief under Rule 60, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 74.

42. By order dated April 9, 2014, Judge Stadtmueller granted Nora's motion to withdraw as counsel for the Rinaldis, but denied the motions to intervene and for relief under Rule 60. Ex. 75; Tr. at 213:13-17.

43. In the April 9, 2014 order, Judge Stadtmueller also stated that:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that "[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney." (Docket #37 at 3 (emphasis in original)). Despite that extremely clear warning, Ms. Nora filed the frivolous motions in question. Therefore, the Court will enter a sanctions award against her, using its inherent authority to do so under *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991). The Court will direct that Ms. Nora pay to the Clerk of the Court \$1,000.00 for deposit into the Eastern District of Wisconsin Pro Bono fund. And let the Court be clear: any further frivolous filings will result in even higher sanctions against Ms. Nora.

Ex. 75:2-3.

44. On appeal, the Seventh Circuit stated that "to the extent the adversary claims are not moot, we affirm the dismissal of those claims for substantially the reasons discussed by the district court." Ex. 76:3.

45. The Seventh Circuit also applied an exception to the general rule that mootness would of the appeal would deprive the lower court's rulings of preclusive effect

where “losing party causes an appeal to become moot in order to avoid the preclusive effect of an unfavorable ruling.” *Id.* The court added, “We refuse to indulge this type of gamesmanship by depriving the sound decisions of the bankruptcy court and district court of preclusive effect.” Ex. 76:4.

46. The Seventh Circuit also affirmed the sanction awarded against Nora, stating that Nora’s obligations to her clients did not excuse her disregard of the district court’s clear and repeated warnings against continued submission of confusing, frivolous, and needlessly argumentative filings. *Id.*

B. Nora Violated SCR 20:3.1(a) By Filing the Motion To Intervene And The Rule 60 Motions In The Rinaldi Matter.

1. Count Four Allegations.

Paragraph 90 of the Complaint alleges that:

In Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al., U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court’s prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated SCR 20:3.1(a).

R. 110:22.

2. Applicable Law.

The applicable law is the same as applicable to Count One.

3. Analysis.

The allegations of misconduct in the Rinaldi matter arise out of Nora’s conduct in filing two motions on April 2, 2014, after two prior warnings by the court. Rinaldi Facts

(“RF”), ¶¶ 25, 30, 37, 38. Judge Stadtmueller denied the motions filed on April 2, 2014, finding them frivolous, and sanctioned Nora the sum of \$1,000. *Id.*, ¶ 43. The Seventh Circuit affirmed. *Id.*, ¶ 46.

Turning to the analysis under SCR 20:3.1(a), the objective standard under SCR 20:3.1(a)(3) is clearly satisfied. Nora’s central argument in the Rinaldi matter was based on the allegation that HSBC was relying on a forged endorsement – an alleged forged signature of Joan M. Mills. RF, ¶¶ 14, 27, 39, 41. Both Judge Kelley and Judge Stadtmueller concluded that the allegation of a forged endorsement was not a defense to HSBC’s ability to enforce the note and mortgage. *Id.*, ¶¶ 14, 21. Judge Stadtmueller then issued his first warning against further meritless filings. *Id.*, ¶ 25.

Nora knew Judge Kelley had found that the allegation of a forged endorsement was immaterial and that Rinaldis lacked standing to address the issue. Tr. at 514:18-515:4, 516:12-23. She knew Judge Stadtmueller’s opinion stated that any issue as to the “mortgage assignments did not affect HSBC’s ability to file a proof of claim and affirms that portion of the Bankruptcy Court’s order.” Tr. at 522:13-15.

Nora nevertheless moved for reconsideration, raising the same argument about the alleged forged endorsement. RF, ¶¶ 26-27. Judge Stadtmueller promptly rejected the rehashed argument, and issued a direct warning against “further frivolous submissions.” *Id.*, ¶¶ 29-30. In the face of these two prior warnings, Nora, in the words of the Seventh Circuit, “dug in her heels” and asserted the same argument for a third and fourth time, in the motion to intervene and for relief under Rule 60. *Id.*, ¶¶ 37-41. At that point, without waiting for a response from the opposing parties, Judge Stadtmueller sua sponte denied

the motions and sanctioned Nora.

Nora knew exactly what she was doing. After having been told multiple times that her argument about an alleged forged assignment was immaterial, and after having twice been warned not to make further meritless and frivolous submissions, Nora did it again. Whether viewed under an objective or subjective standard, Nora violated SCR 20:3.1(a) by filing these motions and re-asserting the same argument.

C. Nora Violated SCR 20:3.2 By Filing the Motion To Intervene And The Rule 60 Motions In The Rinaldi Matter.

1. Count Five Allegations.

Paragraph 90 of the Complaint alleges that:

In Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al., U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated SCR 20:3.2.

R. 110:22.

2. Applicable Law.

The applicable law is the same as applicable to Count Two.

3. Analysis.

The conduct supporting Count Five is the same as Count Four; the issue is whether the conduct also violated SCR 20:3.2 because done for purposes of delay. Similar to the Spencer matter, the Rinaldi record is replete with evidence showing an underlying purpose to delay and frustrate the creditor's foreclosure action. As Nora admitted, the

Rinaldis had not made a mortgage payment for nine years. Tr. at 550:15-551:2.

As to these specific motions, as an experienced attorney, Nora had to know that she did not need to intervene personally in the case in order to defend against sanctions motions left pending before Judge Kelley. She also had to know that dismissal of the bankruptcy case would moot the Rinaldis' appeal, as Judge Kelley had told her a month earlier on March 4, 2014. RF, ¶¶ 33-35. Nora's motion to intervene barely touches on the factors material to a Rule 24 motion to intervene before veering into the latest iteration of the alleged "Joan Mills" forgery defense. The Rule 60 motion is entirely devoted to repeating this same argument twice previously rejected by Judge Stadtmueller. Ex. 73.

The only conceivable purpose for filing these motions was to seek to further confuse issues and delay resolution of issues related to the Rinaldi mortgage and to (as the Seventh Circuit put it in the Spencer matter) "gum up the progress of the case." Ex. 39:4. That Nora's filings in the Rinaldi matter were described as "nigh-unintelligible" and as "an unfocused, stream-of-consciousness-style recitation of general grievances" supports an inference that these motions were filed for purposes of delay. *See Arthur*, 2005 WI 40, ¶ 61 (that attorney's filings were deemed "incomprehensible" and as "one of the lengthiest and most difficult [complaints] to follow" were factors properly considered in determining whether attorney violated SCR 20:3.2). Nora violated SCR 20:3.2 by filings the needless, groundless and frivolous motion to intervene and Rule 60 motion.

III. THE REFEREE SHOULD RECOMMEND A ONE YEAR SUSPENSION OF NORA'S LICENSE TO PRACTICE LAW AS APPROPRIATE DISCIPLINE FOR THE VIOLATIONS.

In determining the appropriate level of discipline, the court considers "the

seriousness of the conduct” as well as “the need to protect the public, courts, and legal system from the attorney’s repetition of misconduct, to impress upon the attorney the seriousness of the misconduct, and to deter other attorneys from engaging in similar misconduct.” *Arthur*, 2005 WI 40, ¶ 78 (citations omitted). *See also* American Bar Association Joint Committee on Professional Sanctions, *Standards for Imposing Lawyer Sanctions* (“*ABA Standards*”),⁷ § III.A.1.1. (“purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely properly to discharge their professional duties to clients, the public, the legal system, and the legal profession”). The Wisconsin Supreme Court and the OLR have relied on the *ABA Standards* in determining the appropriate level of discipline. *See Disciplinary Proceedings Against Compton*, 2010 WI 112, ¶ 11, 329 Wis. 2d 318, 787 N.W.2d 831. In imposing sanctions, the *ABA Standards* suggest that courts should consider:

- (a) the duty violated;
- (b) the lawyer’s mental state;
- (c) the potential or actual injury caused by the lawyer’s misconduct; and
- (d) the existence of aggravating or mitigating factors.

ABA Standards, § III.C.3.0.

A. Suspension Is The Presumptive Sanction.

According to the *ABA Standards* applicable here, absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, “Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or

⁷ A copy of the parts of the *ABA Standards* discussed herein is attached as **Appendix 2** to this brief.

rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.” *ABA Standards* § 6.22. In both the Spencer and Rinaldi matters, Nora plainly sought to injure the opposing party and interfere with the proceedings by her repeated filings of groundless and frivolous motions.

B. Numerous Aggravating Factors Appear In This Record.

A number of aggravating factors (*see ABA Standards* § III.C.9.22) appear in the record. There are no mitigating factors.

1. *Nora was previously disciplined for similar misconduct.*

In *Disciplinary Proceedings Against Nora*, 173 Wis. 2d 660, 495 N.W.2d 99 (1993) (Ex. 77), the court suspended Nora’s license to practice law in Wisconsin for 30 days as reciprocal discipline for conduct that occurred in Minnesota. The misconduct involved misrepresentations as to the reopening and capitalization of a bank, along with failing to adequately investigate a person who was to provide capital to the bank, improperly authorizing issuance of cashier’s checks by the bank, bringing a frivolous claim, transferring assets of her law partnership in an attempt to insulate the assets from collection, bringing litigation primarily as a delay tactic, and asserting a theory not justified by existing law. 173 Wis. 2d at 660-61. That Nora’s prior misconduct, dating back to the 1980s, includes frivolous litigation and litigation for purposes of delay is very troubling, given the similarity to the conduct at issue here.

2. *There is a pattern of misconduct.*

Nora engaged in very similar misconduct in the Spencer and Rinaldi matters. Nora

raised frivolous arguments, and repeatedly re-asserted the same arguments after the courts had rejected them multiple times. Both cases share the common theme of delaying the proceedings with baseless allegations for the purpose of prolonging the foreclosure process. These were not isolated incidents. Delay, refusal to accept judicial decisions, unnecessarily antagonistic filings, and displays of utter disrespect for the judiciary were all items in Nora's toolkit, her *modus operandi*, in these cases.

3. *Nora has made false or misleading statements during this disciplinary process.*

As the Seventh Circuit observed in the Spencer matter, Nora denied "accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis." SF, ¶ 121. At trial, employing tortured hairsplitting semantics, Nora continued to deny that she had accused Judge Potter, court staff and PNC's lawyers of colluding to conceal contents of a court order. Tr. at 496:4-498:9. On the same basis, she continued to deny that she had accused the court reporter of manipulating a transcript at the judge's direction. Tr. at 498:10:4-498:9-499:10. Nora's continued denials fly in the face of the words Nora used in documents she drafted and filed, summarized at pages 29-31 of this brief.

4. *Nora has refused to acknowledge wrongdoing.*

Nora has not only refused to acknowledge wrongdoing, she has taken the opposite tack. In Nora's view, the judges in the Spencer and Rinaldi matters got everything wrong, while Nora was never wrong. But critiquing the correctness of judicial decisions is not enough. Nora also claims that the judges who ruled against the positions she advanced

were biased against homeowners, in the case of Judge Potter colluded with plaintiff's counsel, or in the case of Judge Crabb "engaged in a campaign" of libel against her.

5. *Nora has substantial experience in the practice of law.*

Nora was admitted to practice law in Wisconsin in 1975. She was also admitted to practice in Minnesota and has been doing foreclosure work since the farm crisis in the 1980s. Tr. at 535:20-536:7, 832:10-18. Lack of experience and ignorance neither explains nor mitigates her misconduct. This case is nothing like *Bach*, which involved a neophyte lawyer driven by emotions and passions arising out of love for her disabled son.

6. *Nora's conduct has caused harm to others and the legal system.*

Nora's conduct has caused harm. She caused opposing counsel and parties to incur needless delay in the foreclosure actions, as well as unnecessary attorney fees and costs. Her conduct has interfered in judicial administration. As one federal court stated, "Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources," thereby interfering in allocation of resources necessary to the administration of justice. *Gordon v. U.S.*, 2008 WL 2949415, at *3 (S.D. Ohio 2008),⁸ quoting *In re Walker*, 238 F.3d 426 (6th Cir. 2000). Sanctions have not deterred Nora. Neither Nora nor her client (Spencer) have paid the sanctions, and Nora has obtained bankruptcy protection from being held financially accountable for her misconduct.

⁸ A copy of the *Gordon* decision is attached as Appendix 3 to this brief.

C. In Light Of The Aggravating Factors, The Discipline Recommended By OLR Accords With Precedent.

Regarding the frivolous litigation claims, in *Widule, supra*, the court suspended Attorney Widule's license for six months for frivolous litigation. In the underlying proceeding, Widule brought claims for unjust enrichment, conversion, breach of fiduciary duty by trustee, and uniform commercial code violations an action against Attorney Dona Merg and her client, Royal Bank of Elroy. The complaint essentially accused defendants of misleading Widule's client, Tim Ormson. *Widule*, 2003 WI 34, ¶ 7. The circuit court dismissed the claims, found the case frivolous, and sanctioned Widule for failing to adequately investigate the basis for Ormson's claims. *Id.*, ¶¶ 18-22.

Regarding the Attorney's Oath violation, the attorney's statements in the *Sommers* cases were highly offensive and disrespectful, but Nora has far exceeded the high bar for disrespect set by Attorney Sommers, in terms of both frequency and offensiveness of her attacks. Nora's conduct merits far a more serious sanction than the 30-day suspension and the public reprimand imposed in the *Sommers* cases. *Sommers II*, 2014 WI 103, ¶ 33 (public reprimand); *Sommers I*, 2012 WI 33, ¶ 85 (thirty-day suspension).

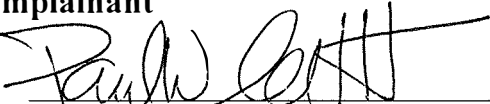
The record supports far more serious discipline than in the *Widule* and *Sommers* matters, given the aggravating facts of multiple counts of frivolous litigation, combined with the continuous disrespect for the judiciary Nora displayed in the Spencer matter and the fact that prior discipline has not deterred Nora from her past pattern of using frivolous litigation tactics as a weapon. The one year suspension OLR recommends is reasonable in light of the precedent and the *ABA Standards* which guide the court.

CONCLUSION

For the reasons stated above, the referee should conclude that there is clear and convincing evidence supporting the five disciplinary counts arising out of Nora's conduct in the Spencer and Rinaldi matters. Based on these violations, OLR urges the referee to recommend a one year suspension of Nora's license to practice law as the appropriate sanction and to recommend imposing all the costs of the proceeding against Nora, with the suspension to be served consecutive to the suspension, if any, ultimately imposed by the court in *OLR v. Nora*, 2013AP653-D.

Respectfully submitted this 15th day of May 2017.

OFFICE OF LAWYER REGULATION
Complainant


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APPENDIX 1

Faust v. Menard, Inc., Not Reported in F.Supp.2d (2012)

KeyCite Yellow Flag - Negative Treatment
Judgment Amended by Faust v. Menard, Inc., N.D.Ind., March 26, 2014

2012 WL 4815415

Only the Westlaw citation is currently available.

United States District Court,
N.D. Indiana,
Hammond Division.

Maize FAUST, Plaintiff,
v.
MENARD, INC.,¹ Defendant.

No. 2:11 CV 425 JM.

Oct. 9, 2012.

Attorneys and Law Firms

Elizabeth Tate Norwood, Robert L. Lewis & Associates,
Gary, IN, for Plaintiff.

Christopher P. Phillips, Bruce Phillip Clark, Bruce P.
Clark & Associates, Saint John, IN, for Defendant.

OPINION and ORDER

JAMES T. MOODY, District Judge.

*1 On August 9, 2012, this action was remanded to state court, on plaintiff's motion, because defendant's removal was untimely. Plaintiff thereafter filed a motion pursuant to 28 U.S.C. § 1447(c) seeking costs and attorneys fees totaling \$7428.50 (DE # 29), and a motion for sanctions in the amount of \$2,500.00, pursuant to RULE 11 of the FEDERAL RULES OF CIVIL PROCEDURE. Plaintiff requested sanctions in order to deter defendant's counsel from pursuing (what plaintiff sees as) a frivolous removal again in the future, and in order to compensate plaintiff's counsel for time she could have spent working on other cases, instead of litigating whether this action was properly removed.² Defendant has responded opposing both motions.

As to § 1447(c), the standard for determining whether to award of costs and attorneys fees is to ask whether there was an objectively reasonable basis for removal; that is, did clearly-established law show that there was no basis for removal? *Lott v. Pfizer, Inc.*, 492 F.3d 789, 793 (7th Cir.2007). Defendant argues that plaintiff has not shown how this standard was met, and that, in any event, it had an objectively reasonable basis for believing that its

removal was timely because it removed the case within thirty days after it had actual receipt/knowledge of the suit. For the reasons explained in the order remanding the case, the court disagrees. Service of the summons and complaint on defendant's registered agent was service on the defendant, as shown by clearly-established law,³ commencing the thirty-day period for removal. This is why the court concluded its remand order by noting that costs and fees would be allowed upon proper evidence. Defendant has not contested the reasonableness of the amount of costs and fees sought, and they will be allowed and awarded to plaintiff.

As to an award under RULE 11:

[T]he district court may impose sanctions if a lawsuit is "not well grounded in fact and is not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law." *Nat'l Wrecking Co. v. Int'l Bhd. of Teamsters, Local 731*, 990 F.2d 957, 963 (7th Cir.1993). The court must "undertake an objective inquiry into whether the party or his counsel should have known that his position is groundless." *Id.* (quoting *CNPA v. Chicago Web Printing Pressmen's Union No. 7*, 821 F.2d 390, 397 (7th Cir.1987) (citations omitted)). *Cuna Mut. Ins. Soc. v. Office and Professional Employees Intern. Union, Local 39*, 443 F.3d 556, 560–61 (7th Cir.2006). RULE 11 contains a "safe harbor" provision: before filing a motion for sanctions, the movant must serve the motion, and allow the offending party 21 days to take corrective action. FED. R. CIV. P. 11(c)(2). Defendant argues that plaintiff failed to comply with the safe-harbor provision; and, for the reasons given previously, it also asserts that it had an objectively reasonable basis for removing the case. Plaintiff argues in reply that she substantially complied with the safe-harbor provision by writing defendant a letter stating that she would seek sanctions, which is sufficient, *Nisenbaum v. Milwaukee County*, 333 F.3d 804, 808 (7th Cir.2003), and that defendant's conduct is sanctionable.

*2 It is hard to see how the standard under § 1447(c), requiring the basis for removal to be objectively reasonable, differs from the RULE 11 standard requiring the position taken to be warranted by existing law or a good-faith argument to change existing law. It has been said that the standard for awarding fees under § 1447(c) is not as stringent as under RULE 11, *Gibs on v. Chrysler Corp.*, 261 F.3d 927, 950 (9th Cir.2001), but that was before the Supreme Court held that fees can be awarded under § 1447(c) "only where the removing party lacked

Faust v. Menard, Inc., Not Reported in F.Supp.2d (2012)

an objectively reasonable basis for seeking removal.” *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141, 126 S.Ct. 704, 163 L.Ed.2d 547 (2005). It simply cannot be, however, that every case in which an award under § 1447(c) is justified also merits the imposition of RULE 11 sanctions. After *Martin*, one court has described the difference as being that while § 1447(c) is a fee-shifting statute designed to deter erroneous removals, RULE 11 is reserved for professional misconduct, allowing the court to impose personal liability on lawyers for conduct which is vexatious or undertaken in bad faith, so only a removal which is “egregiously” erroneous would merit RULE 11 sanctions. *In re Crescent City Estates, LLC*, 588 F.3d 822, 830–31 (4th Cir.2009).

In her reply, plaintiff argues that defendant’s removal was motivated by an improper purpose, because its own insurer valued the present case at only \$4000.00, far less than the diversity amount-in-controversy requirement. The court disagrees with this reasoning. Attorneys practicing in this circuit should know, based on precedent that has existed for twenty years, that “[l]itigants who want to prevent removal must file a binding stipulation or affidavit with their complaints” specifying that only damages less than the diversity minimum are sought. *In re Shell Oil Co.*, 970 F.2d 355, 356 (7th Cir.1992).

It is true that in remanding this case, the court harshly criticized defendant’s arguments for removal, and has

now made it clear that it does not believe those arguments were objectively reasonable. At the same time, however, one of defendant’s arguments was that because its agent was served with process that used a misnomer for defendant, the service did not meet the standard of being “reasonably calculated” to give defendant notice. The standard of something being “reasonably calculated” is one which invites arguments which go so far out on a limb that, after being chopped off, they may look foolish. Although the court thinks that defendant’s legal decisions in this case were ill-conceived and may have flirted with RULE 11, it does not believe that a violation occurred. Plaintiff’s motion for sanctions will be denied.

For the foregoing reasons, plaintiff’s motion for RULE 11 sanctions (DE # 30) is **DENIED**; but plaintiff’s motion for costs and attorneys fees pursuant to 28 U.S.C. § 1447(c) (DE # 29) is **GRANTED**. The clerk is directed to enter judgment for plaintiff awarding \$7428.50 in costs and attorney’s fees.

***3 SO ORDERED.**

All Citations

Not Reported in F.Supp.2d, 2012 WL 4815415

Footnotes

- 1 This is defendant’s correct legal name; it is named in the complaint as “Menards, Inc.”
- 2 This latter reason is not a good one. If fees are awarded under 1447(c), it would amount to double compensation.
- 3 *Roe v. O’Donohue*, 38 F.3d 298, 304 (7th Cir.1994) (“we hold that the 30 days commences when the defendant, or its authorized agent, comes into possession of a copy of the complaint” (emphasis added)); see also *Peterson v. Sealed Air Corp.*, 902 F.2d 1232, 1236–37 (7th Cir.1990) (“We hold that a corporation ‘receive[s] ... notice’ within the meaning of Rule 15(c)(1) no later than the date its registered agent for service of process receives the complaint, even though the complaint does not identify that corporation as a party.”).

APPENDIX 2

STANDARDS FOR IMPOSING LAWYER SANCTIONS

AS APPROVED, FEBRUARY 1986

AND AS AMENDED, FEBRUARY 1992

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III. STANDARDS FOR IMPOSING LAWYER SANCTIONS: BLACK LETTER RULES

For reference purposes, a list of the black letter rules is set out below. The entire report, with commentary on each rule, begins on p. 23.

DEFINITIONS

"Injury" is harm to a client, the public, the legal system, or the profession which results from a lawyer's misconduct. The level of injury can range from "serious" injury to "little or no" injury; a reference to "injury" alone indicates any level of injury greater than "little or no" injury.

"Intent" is the conscious objective or purpose to accomplish a particular result.

"Knowledge" is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.

"Negligence" is the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation.

"Potential injury" is the harm to a client, the public, the legal system or the profession that is reasonably foreseeable at the time of the lawyer's misconduct, and which, but for some intervening factor or event, would probably have resulted from the lawyer's misconduct.

A. PURPOSE AND NATURE OF SANCTIONS

- 1.1 **Purpose of Lawyer Discipline Proceedings.** The purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely properly to discharge their professional duties to clients, the public, the legal system, and the legal profession.
- 1.2 **Public Nature of Lawyer Discipline.** Ultimate disposition of lawyer discipline should be public in cases of disbarment, suspension, and reprimand. Only in cases of minor misconduct, when there is little or no injury to a client, the public, the legal system, or the profession, and when there is little likelihood of repetition by the lawyer, should private discipline be imposed.
- 1.3 **Purpose of These Standards.** These standards are designed for use in imposing a sanction or sanctions following a determination by clear and convincing evidence that a member of the legal profession has violated a provision of the

- (g) other requirements that the state's highest court or disciplinary board deems consistent with the purposes of lawyer sanctions.

2.9 Reciprocal Discipline

Reciprocal discipline is the imposition of a disciplinary sanction on a lawyer who has been disciplined in another jurisdiction.

2.10 Readmission and Reinstatement

In jurisdictions where disbarment is not permanent, procedures should be established to allow a disbarred lawyer to apply for readmission. Procedures should be established to allow a suspended lawyer to apply for reinstatement.

C. FACTORS TO BE CONSIDERED IN IMPOSING SANCTIONS

3.0 GENERALLY

In imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors:

- (a) the duty violated;
- (b) the lawyer's mental state;
- (c) the potential or actual injury caused by the lawyer's misconduct; and
- (d) the existence of aggravating or mitigating factors.

4.0 VIOLATIONS OF DUTIES OWED TO CLIENTS

4.1 FAILURE TO PRESERVE THE CLIENT'S PROPERTY

Absent aggravating or mitigating circumstances, upon application of the factors set out in 3.0, the following sanctions are generally appropriate in cases involving the failure to preserve client property:

- 4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.
- 4.12 Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving conduct that is prejudicial to the administration of justice or that involves dishonesty, fraud, deceit, or misrepresentation to a court:

- 6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.
- 6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.
- 6.13 Reprimand is generally appropriate when a lawyer is negligent either in determining whether statements or documents are false or in taking remedial action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.
- 6.14 Admonition is generally appropriate when a lawyer engages in an isolated instance of neglect in determining whether submitted statements or documents are false or in failing to disclose material information upon learning of its falsity, and causes little or no actual or potential injury to a party, or causes little or no adverse or potentially adverse effect on the legal proceeding.

6.2 ABUSE OF THE LEGAL PROCESS

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving failure to expedite litigation or bring a meritorious claim, or failure to obey any obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists:

- 6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

- 6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.
- 6.23 Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.
- 6.24 Admonition is generally appropriate when a lawyer engages in an isolated instance of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual or potential interference with a legal proceeding.

6.3 IMPROPER COMMUNICATIONS WITH INDIVIDUALS IN THE LEGAL SYSTEM

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving attempts to influence a judge, juror, prospective juror or other official by means prohibited by law:

- 6.31 Disbarment is generally appropriate when a lawyer:
 - (a) intentionally tampers with a witness and causes serious or potentially serious injury to a party, or causes significant or potentially significant interference with the outcome of the legal proceeding; or
 - (b) makes an ex parte communication with a judge or juror with intent to affect the outcome of the proceeding, and causes serious or potentially serious injury to a party, or causes significant or potentially significant interference with the outcome of the legal proceeding; or
 - (c) improperly communicates with someone in the legal system other than a witness, judge, or juror with the intent to influence or affect the outcome of the proceeding, and causes significant or potentially significant interference with the outcome of the legal proceeding.
- 6.32 Suspension is generally appropriate when a lawyer engages in communication with an individual in the legal system when the lawyer knows that such communication is improper, and causes injury or potential injury to a party or causes interference or potential interference with the outcome of

considerations or factors that may justify an increase in the degree of discipline to be imposed.

9.22 Factors which may be considered in aggravation.

Aggravating factors include:

- (a) prior disciplinary offenses;**
- (b) dishonest or selfish motive;**

- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency;
- (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
- (g) refusal to acknowledge wrongful nature of conduct;
- (h) vulnerability of victim;
- (i) substantial experience in the practice of law;
- (j) indifference to making restitution
- (k) illegal conduct, including that involving the use of controlled substances..

9.3 Mitigation

9.31 Definition. Mitigation or mitigating circumstances are any considerations or factors that may justify a reduction in the degree of discipline to be imposed.

9.32 Factors which may be considered in mitigation.

Mitigating factors include:

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) personal or emotional problems;
- (d) timely good faith effort to make restitution or to rectify consequences of misconduct;
- (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;
- (f) inexperience in the practice of law;

- (g) character or reputation;
- (h) physical disability;
- (i) mental disability or chemical dependency including alcoholism or drug abuse when:
 - (1) there is medical evidence that the respondent is affected by a chemical dependency or mental disability;
 - (2) the chemical dependency or mental disability caused the misconduct;
 - (3) the respondent's recovery from the chemical dependency or mental disability is demonstrated by a meaningful and sustained period of successful rehabilitation; and
 - (4) the recovery arrested the misconduct and recurrence of that misconduct is unlikely;
- (j) delay in disciplinary proceedings;
- (k) imposition of other penalties or sanctions;
- (l) remorse;
- (m) remoteness of prior offenses.

9.4 Factors which are neither aggravating nor mitigating.

The following factors should not be considered as either aggravating or mitigating:

- (a) forced or compelled restitution;
- (b) agreeing to the client's demand for certain improper behavior or result;
- (c) withdrawal of complaint against the lawyer;
- (d) resignation prior to completion of disciplinary proceedings;
- (e) complainant's recommendation as to sanction;
- (f) failure of injured client to complain.

APPENDIX 3

Gordon v. U.S., Not Reported in F.Supp.2d (2008)

2008 WL 2949415
Only the Westlaw citation is currently available.
United States District Court,
S.D. Ohio,
Eastern Division.

Michael Lee GORDON, Petitioner,
v.
UNITED STATES of America, Respondent.

No. 2:01-CV-1166.
|
Crim. No. 2:97-CR167(6).
|
July 29, 2008.

Attorneys and Law Firms

Michael Lee Gordon, Victorville, CA, pro se.

OPINION AND ORDER

JAMES L. GRAHAM, District Judge.

***1** On May 22, 2008, petitioner filed motions for reconsideration, objection and request to alter or amend judgment, Doc. No. 360, for arrest of judgment and request for dismissal of the indictment, Doc. No. 359, and for reconsideration, Doc. No. 358. In his most recent motions, petitioner again asserts that the indictment against him was inadequate, that he had immunity from prosecution pursuant to his plea agreement; that he was denied the effective assistance of counsel because his attorney failed to object to double hearsay, and that defense counsel misrepresented him and he was a victim of prosecutorial misconduct due to an “understanding” that was reached between the parties prior to trial regarding the scope of cross examination of government witnesses. Petitioner has filed repeated motions raising these same claims since September 30, 2002, when the Court dismissed petitioner’s motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Petitioner also now has filed yet another motion for relief from final judgment of dismissal of his § 2255 petition pursuant to Federal Rule of Civil Procedure 60(b), in which he again argues, as he has previously, that the Court should not construe his Rule 60(b) motion as a successive petition because he was unable previously to obtain trial transcripts, and because the prosecutor and defense counsel allegedly engaged in misconduct and

misrepresentations, and committed fraud upon the Court regarding testimony of government witnesses. *See* Doc. No. 358.

This Court has already rejected these same arguments. *See* Doc. Nos. 354, 356. As previously discussed, the Court is without jurisdiction to consider new claims raised in petitioner’s Rule 60(b) motion absent authorization for filing a successive petition from the United States Court of Appeals for the Sixth Circuit. In *Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005), the United States Supreme Court held:

In some instances, a Rule 60(b) motion will contain one or more “claims.” For example, it might straightforwardly *531 assert that owing to “excusable neglect,” Fed. Rule Civ. Proc. 60(b)(1), the movant’s habeas petition had omitted a claim of constitutional error, and seek leave to present that claim. *Cf. Harris v. United States*, 367 F.3d 74, 80-81 (C.A.2 2004) (petitioner’s Rule 60(b) motion sought relief from judgment because habeas counsel had failed to raise a Sixth Amendment claim). Similarly, a motion might seek leave to present “newly discovered evidence,” Fed. Rule Civ. Proc. 60(b)(2), in support of a claim previously denied. *E.g., Rodwell v. Pepe*, 324 F.3d 66, 69 (C.A.1 2003). Or a motion might contend that a subsequent change in substantive law is a “reason justifying relief,” Fed. Rule Civ. Proc. 60(b)(6), from the previous denial of a claim. *E.g., Dunlap v. Litscher*, 301 F.3d 873, 876 (C.A.7 2002). Virtually every Court of Appeals to consider the question has held that such a pleading, although labeled a Rule 60(b) motion, is in substance a successive habeas petition and should be treated accordingly. *E.g., Rodwell, supra*, at 71-72; *Dunlap, supra*, at 876.

***2** We think those holdings are correct. A habeas petitioner’s filing that seeks vindication of such a claim is, if not in substance a “habeas corpus application,” at least similar enough that failing to subject it to the same requirements would be “inconsistent with” the statute. 28 U.S.C. § 2254 Rule 11. Using Rule 60(b) to present new claims for relief from a state court’s judgment of conviction—even claims couched in the language of a true Rule 60(b) motion—circumvents AEDPA’s requirement that a new claim be dismissed unless it relies on either a new rule of constitutional law or newly discovered facts. § 2244(b)(2). The same is true of a Rule 60(b)(2) motion presenting new evidence in support of a claim already litigated: Even assuming that reliance on a new factual predicate

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causes that motion to escape § 2244(b)(1)'s prohibition of claims "presented in a prior application," § 2244(b)(2)(B) requires a more convincing factual showing than does Rule 60(b). Likewise, a Rule 60(b) motion based on a purported change in the substantive law governing the claim could be used to circumvent § 2244(b)(2)(A)'s dictate that the only new law on which a successive petition may rely is "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable." In addition to the substantive conflict with AEDPA standards, in each of these three examples use of Rule 60(b) would impermissibly circumvent the requirement that a successive habeas petition be precertified by the court of appeals as falling within an exception to the successive-petition bar. § 2244(b)(3).

In most cases, determining whether a Rule 60(b) motion advances one or more "claims" will be relatively simple. A motion that seeks to add a new ground for relief, as in *Harris*, supra, will of course qualify. A motion can also be said to bring a "claim" if it attacks the federal court's previous resolution of a claim on the merits,⁴ since alleging that the court erred in denying habeas relief on the merits is effectively indistinguishable from alleging that the movant is, under the substantive provisions of the statutes, entitled to habeas relief. That is not the case, however, when a Rule 60(b) motion attacks, not the substance of the federal court's resolution of a claim on the merits, but some defect in the integrity of the federal habeas proceedings.⁵

*3 *Id.*, at 530-532. Because petitioner raises new claims which challenge the integrity of his trial as opposed to the integrity of federal habeas proceedings, his latest motions, Doc. Nos. 359-360, again are **TRANSFERRED** to the Court of Appeals for authorization for filing as a

successive petition. His motion for reconsideration, Doc. No. 358, therefore is **DENIED**. The Court further cautions petitioner that his continued filing of further frivolous motions again repeating these same allegations and raising requesting relief from judgment or reconsideration on the same grounds constitutes abuse of judicial process. Petitioner is warned that the filing of further frivolous pleadings may result in the imposition of sanctions against him.

[P]risoners who persist in flooding the courts with frivolous and repetitive actions that waste the courts' time and resources ... risk being sanctioned for doing so, including losing their ability to proceed *in forma pauperis* with respect to their future civil actions, as well as being subjected to a substantial fine. As the Supreme Court noted in *McDonald*, 489 U.S. at 184, "Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice. The continual processing of petitioner's frivolous requests for extraordinary writs does not promote that end."

In re Walker, 238 F.3d 426 (6th Cir.2000); see also *Antonelli v. Grondolski*, 2007 WL 3231548 (E.D.Kentucky, October 30, 2007), citing *Chambers v. NASCO, Inc.*, 502 U.S. 32, 44 (1991); *In re Prevot*, 59 F.3d 556, 563-64 (6th Cir.1995).

IT IS SO ORDERED.

All Citations

Not Reported in F.Supp.2d, 2008 WL 2949415

Footnotes

4 The term "on the merits" has multiple usages. See, e.g., *Semtek Int'l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 501-503, 121 S.Ct. 1021, 149 L.Ed.2d 32 (2001). We refer here to a determination that there exist or do not exist grounds entitling a petitioner to habeas corpus relief under 28 U.S.C. §§ 2254(a) and (d). When a movant asserts one of those grounds (or asserts that a previous ruling regarding one of those grounds was in error) he is making a habeas corpus claim. He is not doing so when he merely asserts that a previous ruling which precluded a merits determination was in error—for example, a denial for such reasons as failure to exhaust, procedural default, or statute-of-limitations bar.

5 Fraud on the federal habeas court is one example of such a defect. See generally *Rodriguez v. Mitchell*, 252 F.3d 191, 199 (C.A.2 2001) (a witness's allegedly fraudulent basis for refusing to appear at a federal habeas hearing "relate[d] to the integrity of the federal habeas proceeding, not to the integrity of the state criminal trial"). We note that an attack based on the movant's own conduct, or his habeas counsel's omissions, see, e.g., supra, at 2647, ordinarily does not go to the integrity of the proceedings, but in effect asks for a second chance to have the merits

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determined favorably.

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APPENDIX Q

STATE OF WISCONSIN

IN THE SUPREME COURT

In re the Matter of the Disciplinary Proceedings
 Against Wendy Alison Nora,
 Attorney at Law

Case Code: 30912

 Office of Lawyer Regulation,
 Complainant

Case No. 2015AP002442-D

v.
 Wendy Alison Nora,
 Respondent

RESPONDENT’S POST-HEARING BRIEF
 (ALL RIGHTS RESERVED)

INTRODUCTION

Wendy Alison Nora (Nora), appearing specially and preserving her objections to subject matter jurisdiction or competency of the tribunal, submits her Post-Hearing Brief, reserving all of her rights. Nora does not waive any of her rights to address the jurisdictional, constitutional, legal or factual issues not addressed in this Post-Hearing Brief in any subsequent proceeding because this Brief is responsive to OLR’s Post-Hearing in which OLR has extensively amended the factual basis for the charges against Nora, after the hearing, without Nora’s consent, based on its interpretation of the evidence adduced at the hearing, ignoring all exculpatory evidence and depriving Nora of her basis due process rights recognized by the United States Supreme Court in *In the Matter of John Ruffalo, Jr., Petitioner* 390 U.S. 544, 551, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968) and by the Wisconsin Supreme Court in This Court recognized the following due process rights of lawyers in disciplinary cases in *State v. Hersh*, 73 Wis.2d 390, 398, 243 N.W.2d 178, 182 (1976).

PROCEDURAL HISTORY

The Office of Lawyer Regulation (OLR) commenced the proceedings in this matter by filing a Complaint and Order to Answer on November 30, 2015, after its late attempt to file a Second Amended Complaint in *OLR v. Nora*, 2013AP000653-D (Nora #1) was rejected. The November 30, 2015 Complaint is identical to the Second Amended Complaint that OLR attempted to file in Nora #1. Nora was served with the Complaint and Order to Answer on December 2, 2015. On December 3, 2015, Nora provided OLR with safe-harbor notice under Wis. Stat. sec. 802.05. Nora filed her Motion to Dismiss for Selective and Vindictive Prosecution and for a Determination of Probable Cause, seeking an evidentiary hearing on her motions. On January 19, 2015, OLR filed an Amended Complaint. Nora again gave safe-harbor notice under Wis. Stat. sec. 802.05 on January 25, 2016. Nora was not required to submit another set of Motions to Dismiss for Selective and Vindictive Prosecution and for Determination of Probable Cause, by a specific provision of the Referee's February 18, 2016 Scheduling Order (Request for Judicial Notice, Exhibit 1, page 2, ¶3). Nora filed Motions for Sanctions under Wis. Stat. sec. 802.05 on January 25, 2016, February 17, 2016 and an Amended Motion for Sanctions on April 11, 2016 (Request for Judicial Notice, Exhibits 2, 3, and 4). OLR responded to Nora's Motions that it was at a disadvantage in responding to Nora's Motions because Nora had not answered the Amended Complaint (Request for Judicial Notice, Exhibit 5: OLR's Response dated March 28, 2016, page 4).

On April 26, 2016, the Referee denied Nora's Motions, finding that Nora's due process rights had been protected by the OLR's investigation and the presentation of the matter to the Preliminary Review Committee (PRC) (Request for Judicial Notice, Exhibit 6). He found,

without granting Nora the opportunity for an evidentiary hearing, that there was nothing in the record which supported her Motion to Dismiss for Selective and Vindictive Prosecution, despite the fact that Nora had submitted Appendices consisting of 27 Exhibits totaling 476 pages supporting her position. Nora verified all of her statements and was prepared to submit to adverse examination at the requested evidentiary hearing. See Nora's December 22, 2015 Verified Jurisdictional Objection and Motions (Request for Judicial Notice, Exhibit 7, without the documentary evidence in support of the Objection and Motions due to the volume of the documentary evidence).

The Referee dispensed with Nora's entire preliminary demonstration of selective and vindictive prosecution, based on substantial documentary evidence and her verified statements, finding, "There is nothing before me that would lead me to conclude at this time that OLR is acting in a selective or vindictive manner in filing the amended complaint in Nora #2. OLR cites ample authority for the proposition that they have broad discretion in determining what misconduct counts they will pursue." He further concluded, based on OLR's unverified argument only, "OLR asserts that the allegations of the amended complaint were investigated and went before the Preliminary Review Committee.¹ Supreme Court rules were followed before the

¹ Footnote 1 in the April 26, 2016 Order reads, "It is unclear whether the Preliminary Review Committee considered all allegations in both Nora #1 and Nora #2 at the same time or if there was a separate investigation and Preliminary Review Committee review of the evidence that lead to Nora #2."

Many of the factual allegations in the Amended Complaint occurred after Nora #1 was commenced. It is not surprising that there is lack of clarity in the record because Nora's Motions were denied based entirely on OLR's *argument* and all of Nora's *evidence* was disregarded. It is well established that argument is not evidence. *Merco Distributing Corp. v. O & R Engines, Inc.*, 71 Wis.2d 792, 795-796 n. 5, 239 N.W.2d 97 (Wis., 1976).

additional counts in Nora #2 were filed.² The Referee essentially concluded that OLR's argument was sufficient to defeat Nora's verified evidence. The Referee wrote, "I have carefully reviewed the allegations made in the amended complaint. Except for Respondent's assertions (sic), there is nothing in the allegations that leads me to believe the allegations were not made after investigation and review pursuant to Supreme Court rules."³ Nora submitted substantial evidence in support of her Motion to Dismiss for Selective and Vindictive Prosecution which she contends was sufficient to require an evidentiary hearing on the merits of the Motion. The Motion to Dismiss was denied on April 26, 2016.

Nora answered the Amended Complaint on May 16, 2016 and commenced discovery. Upon review of Nora's discovery, new counsel for OLR, Attorney Paul W. Schwarzenbart (Schwarzenbart) realized that OLR had charged Nora with misconduct in litigation in a case in which no litigation activities had taken place identifying *PNC v. Spencer*, Wood County Circuit Court Case No. 2014TJ000049. It is submitted that the reason the wrong case number was used to identify the Spencer foreclosure case is that no pre-charging investigation of the events in the actual foreclosure case was undertaken before the Investigative Report was submitted to the Preliminary Review Committee (PRC) for a determination of cause to proceed by a preliminary review panel of the PRC (collectively, the PRC). See Offer of Proof, Exhibit 529.

² There is no evidence in the record upon which the Order Denying Nora's Motions was based that the Supreme Court Rules were followed in the investigation and review. Nora was denied any discovery with respect to the issue of compliance with the Supreme Court Rules in the investigative and charging process.

³ OLR amended ¶1 of Amended Complaint in its Second Amended Complaint and did not allege that the PRC had approved the facts and allegations of misconduct set forth in the Second Amended Complaint. Nora was denied any discovery with respect to ¶1 of the Second Amended Complaint. See *infra*.

Schwarzenbart then proceeded, with OLR Investigator Travis J. Stieren (Stieren), to act as a charging authority in place of the PRC, contrary to SCR 22.11(2). Schwarzenbart sought Nora's stipulation to allow OLR to file a Second Amended Complaint based on Nora's alleged actions in Wood County Circuit Court Case No. 2009CV000283. Nora declined to stipulate to the filing of a Second Amended Complaint because she knew that the proposed changes to the Amended Complaint had not been presented to the Preliminary Review Committee (PRC). (Request for Judicial Notice, Exhibit 8 is the complete record of the correspondence between Schwarzenbart and Nora concerning the proposed Stipulation to amend the Complaint.)

Schwarzenbart moved for leave to file a Second Amended Complaint on June 3, 2016, but did not file a Second Amended Complaint. He presented the June 3, 2016 Affidavit from the Investigator (Stieren), who swore that the PRC had authorized the filing of the Complaint in this matter based on Nora's conduct in Wood County Circuit Court Case No. 2009CV000283, based on his investigation. (Request for Judicial Notice, Exhibit 9.) There is nothing in Stieren's July 10, 2015 Investigative Report (Offer of Proof, Exhibit 529) which identifies the county in which the Spencer foreclosure case was pending and it does not mention the Wood County Circuit Court Case by name or number. It appears that the investigation was based on the August 14, 2014 decision of the Seventh Circuit Court of Appeals which did not even identify the county in which Ms. Spencer's home is located.

The Complaint and Amended Complaint were required to set forth *only* those facts and allegations of misconduct determined by the PRC. SCR 22.11(2). Exhibit 529 of Nora's Offer of Proof is the information she received from Stieren which purports to be the information provided to the PRC, "except the five page Investigative Report," which was not provided to Nora and was

sought in discovery, which Attorney Winiarski denied Nora in his Order of October 13, 2016 (Request for Judicial Notice, Exhibit 10). There is no evidence in the record, other than June 3, 2016 Stieren's Affidavit (to which his Investigative Report was not attached), to support the conclusions in the August 31, 2016 Order (Request for Judicial Notice, Exhibit 11) that OLR had complied with SCR 22.11(2) in charging Nora and no evidence other than Stieren's June 3, 2016 Affidavit to support the conclusion that the PRC had made a determination based on Nora's actions in Wood County Circuit Court Case No. 2009CV000283. Stieren's June 3, 2016 Affidavit is contradicted by Nora's Offer of Proof, Exhibit 529. Furthermore, it is extremely doubtful that the preliminary review panel of the PRC (hereinafter, for simplicity, the PRC) ever reviewed the 1363 pages of documents submitted by Nora in good faith cooperation with OLR's investigation as required by SCR 21.15(4).

Schwarzenbart, in his June 3, 2016 Affidavit (Request for Judicial Notice, Exhibit 12) claims that he cannot explain why Assistant Litigation Counsel Sheryl St. Ores did not identify the correct Wood County Circuit Court case in the November 30, 2015 Complaint or the January 19, 2016 Amended Complaint. It appears that she never reviewed the 1363 pages of documents Nora produced (which are largely exculpatory). Regrettably, Schwarzenbart does not appear to have any experience in criminal law, so it is not surprising that he did not consider exculpatory evidence Nora's exculpatory evidence in this case.⁴ In Nora #1 Schwarzenbart denied that there was any exculpatory evidence to be produced in discovery (Request for Judicial Notice, Exhibit

⁴ In Nora #1, Schwarzenbart denied that there was any exculpatory evidence to be discovered, when he knew or should have known that the forged email and attachment provided by Potteiger and his falsely sworn Affidavit and screen print sworn to as having been made on an uncertain and suggestively remote past date could not have escaped even a civil practitioner's notice. This issue, among others, is pending before the Wisconsin Supreme Court in Nora #1.

13) and withheld the very exculpatory evidence Nora was seeking to have produced—the electronic version of the email upon which OLR and the Referee in Nora #1 relied as evidence on Count Two in Nora #1. Nora was denied due process in the investigative and charging phases of these proceedings because her voluminous exculpatory evidence presentation was not addressed in the Investigative Report presented to the PRC, contrary to SCR 22.03(3). Offer of Proof, Exhibit 529.

The Referee required OLR to file and serve the Second Amended Complaint containing allegations that were clearly not approved by the PRC (Request for Judicial Notice, Exhibit 14). Nevertheless, Nora was forced to argue for her right to file an Answer to the Second Amended Complaint (which should have been obvious). She also had to argue that the hearing set for September 7, 2016 could not go forward as scheduled because her Answer to the Second Amended Complaint was not yet even due to be filed and that she was entitled to conduct discovery. The Referee did not decide the Motion for Relief from the Scheduling Order until September 20, 2016 (Request for Judicial Notice, Exhibit 15).

On August 31, 2016, James J. Winiarski (Attorney Winiarski), then presiding over an ultra vires tribunal, having permitted the matter to proceed on facts and allegations of misconduct not determined by the PRC) limited Nora to discovery regarding OLR's amendments (Request for Judicial Notice, Exhibit 16). In that same Order, Attorney Winiarski, presiding over the ultra vires tribunal, rescheduled the evidentiary hearing in this matter to October 31, 2016 due to the filing of the Second Amended Complaint and Nora's right to file an Answer. In the September 20, 2016, Attorney Winiarski reiterated the limitation of Nora's discovery rights (Request for Judicial Notice, Exhibit 17).

Nora was entitled to discover evidence to defend against the Second Amended Complaint because OLR amended ¶1, which altered the entire foundation of the proceedings, divesting the tribunal of subject matter jurisdiction or competency. Moreover, the Order of August 16, 2016, while prematurely denying Nora’s Motion for Damages pursuant to Wis. Stat. sec. 895.044, provided that Nora could renew the Motion for Damages at the conclusion of the proceedings (Request for Judicial Notice, Exhibit 14). In these proceedings, Nora was never allowed any discovery to establish what the PRC reviewed⁵ (Request for Judicial Notice, Exhibit 18—Order of September 27, 2016 and Request for Judicial Notice, Exhibit 10). Moreover, Nora was not allowed to call any witnesses in her defense, contrary to *Greene v. Elroy*, 360 U.S. 474, 497, 79 S.Ct. 1400, 3 L.Ed.2d 1377 (1959), because the Referee refused to issue a comprehensive new scheduling order after granting OLR’s Motion for Leave to Amend the Complaint, despite Nora’s Motion for Relief from the Scheduling Order timely filed on August 17, 2016. The Referee, who had by then been divested of jurisdiction or competency by allowing OLR to amend its yet-unfiled and unserved Second Amended Complaint which altered the allegations in not just ¶6 but ¶¶7-32. The change to ¶6 made it necessary for Nora to prepare to defend ¶¶7-32 in Wood County Circuit Court Case No. 2009CV000283.

Nora had prepared to defend against ¶¶6-32 on the grounds that she engaged in no activities whatsoever in Wood County Circuit Court Case No. 2014CV00049. OLR was allowed to amend ¶19 in the Second Amended Complaint filed on August 18, 2016 because it realized

⁵ According to Justice David T. Prosser, concurring, in part, and dissenting, in part, in *Office of Lawyer Regulation v. Kratz* (In re Disciplinary Proceedings Against Kratz), 2014 WI 31, ¶100, 353 Wis.2d 696, 851 N.W.2d 219, 235 (Wis., 2014), the PRC approves 98% of the charges recommended by OLR staff.

that ¶19 was a false statement of facts as Nora had been trying to point out since December 3, 2015. And, OLR also amended ¶1 in the Second Amended Complaint filed on August 18, 2016 to provide that its authority for filing the Second Amended Complaint was not the determination of facts and allegations of misconduct by the PRC under SCR 22.11(2) but was based on the Referee allowing the Second Amended Complaint to be filed without the PRC making the required determination of the facts and misconduct allegations.⁶

Nora timely propounded discovery based on the filing of the Second Amended Complaint which altered Nora's entire position in her defense. On September 23, 2016, OLR sought to have Nora sanctioned for propounding discovery which it contended was outside the bounds of the amended ¶6 and ¶19 by having her September 7, 2016 Answer stricken, by denying Nora the right to file a list of witnesses and any documentary evidence in her defense and denying Nora any discovery whatsoever (Request for Judicial Notice, Exhibit 19). Without statutory notice and opportunity to be heard, the then-ultra vires tribunal entered an Order on September 27, 2016 (Request for Judicial Notice, Exhibit 18).

Nora objected to the September 27, 2016 Order contending that it was void for lack of statutory notice required for due process. The ultra vires tribunal then granted OLR's Motion for a Protective Order on October 13, 2016 denying her any discovery whatsoever because she did not satisfactorily explain how each and every discovery request was related to the changes to ¶6 and ¶19 of the Second Amended Complaint (ignoring amended ¶1 in the Second Amended

⁶ Although Nora had sought a probable cause hearing because she knew that the allegations in the Complaint and Amended Complaint were false, her Verified Motion for a probable cause hearing was denied. But OLR was allowed to bypass the PRC entirely to file the Second Amended Complaint when it realized after months of Nora alerting OLR to its false factual allegations that some of its factual allegations were indeed false.

Complaint and Nora's reserved right to proceed on her Sec. 895.044 Motion⁷). In the October 13, 2016 Order (Request for Judicial Notice, Exhibit 10), Nora was denied the opportunity to call any witnesses in her defense or to produce any documentary evidence. On October 24, 2016, Nora presented her Offers of Proof in these proceedings, subject to the objection to subject matter jurisdiction or competency of the tribunal.

Nora's co-counsel, John William Verant, who appeared on August 22, 2016, experienced severe and audibly debilitating symptoms of a pre-existing injury as of October 29, 2016 while Nora was talking to him on the telephone and working with him to prepare for the October 31, 2016 hearing. Medical records show that he sought urgent care on that date (following the telephone conference). Attorney Verant was medically incapacitated to the extent that he was unable to travel to Madison, Wisconsin for the hearing set for October 31, 2016. Nora appeared at the location of the hearing on October 31, 2016, without waiving her position on subject matter jurisdiction or competency, and argued for a continuance of the hearing so that she could be assisted at the (*ultra vires*) hearing by co-counsel. The matter was reset for evidentiary hearing to commence on November 17, 2016. Unfortunately, co-counsel was still medically unable to appear and proceed on November 17, 2016.

On November 17, 2016 Nora agreed, subject to her reserved objections to the subject matter or competency of the tribunal, to have the hearing held in Milwaukee, Wisconsin for two (2) days of the hearing. On January 17, 2017, Nora slipped on ice and hit her head on pavement. What followed was a series of violations of the Americans with Disabilities Amendments Act of

⁷ Nora's remedy under Wis. Stat. sec. 895.044 Motion is not the exclusive remedy for the violations of her litigation rights set forth therein and were reserved for subsequent proceedings on March 27, 2017.

2008 (ADAA) wherein Nora was required to litigate her requests for ADAA accommodations.

The ADAA issues are reserved for subsequent proceedings.⁸

THE CHARGES

Nora was charged, on differing facts, by allegations of misconduct in the Complaint, Amended Complaint and the Second Amended Complaint with violations of SCR 20:3.1(a) (Counts One and Four), SCR 20:3.2 (Counts Two and Five) and with violating her oath as an attorney (SCR 40.15) in violation of SCR 20:8.4(g) (Count Three). All three (3) versions of the Complaints⁹ contain the following allegations of misconduct which appear at ¶¶61, 62, 63, 90, and 91 of the Second Amended Complaint:

THE SPENCER MATTER

COUNT ONE

61. By removing a state court foreclosure matter to the federal court after four years of litigation when there was no colorable basis for federal jurisdiction, and, by filing a frivolous motion to reconsider the order remanding the matter back to the state court, Nora violated SCR 20:3.1(a). [fn. 1]

1 SCR 20:3.1(a) provides: “In representing a client, a lawyer shall not: (1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law; (2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or (3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when

⁸ Nora observes, however, that as of February 15, 2018, neither OLR nor Attorney Winiarski opposed Nora’s request for a *de minimus* extension of time to file this Post-Hearing Brief. It appears that there was finally no longer any contest over whether or not Nora had been eligible for reasonable ADAA accommodations since her January 17, 2017 injury. Nora is grateful for the opportunity to submit her Post-Hearing Brief at this time.

⁹ In addition to the filing of the three (3) complaints in this matter, OLR also attempted to file the November 30, 2015 Complaint as a Second Amended Complaint in Nora #1.

the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.”

COUNT TWO

62. By filing a frivolous appeal on behalf of her client and herself when she was not a party to the litigation, and, by engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 20:3.2. [fn. 2]

2 SCR 20:3.2 provides: “A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.”

COUNT THREE

63. By engaging in an ongoing pattern of conduct to harass the other parties and judicial officers and delay the proceedings, Nora violated SCR 40.15 enforceable via SCR 20:8.4 (g). [3]

3 SCR 40.15 provides in relevant part: “I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land; ... I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged . . .”

SCR 20:8.4(g) provides: “It is professional misconduct for a lawyer to violate the attorney’s oath.”

THE RINALDI MATTER

COUNT FOUR

90. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N. A. , et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U. S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court’s prior orders pursuant to F.R.C.P. 60 (b)(2), which motions were found to be frivolous, after the U. S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated SCR 20:3.1(a) .

COUNT FIVE

91. In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N. A. , et al. , U. S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS*, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court's prior orders pursuant to F.R.C.P. 60 (b) (2), which motions were found to be frivolous, after the U. S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated and SCR 20:3.2.

**THE NEW FACTUAL ALLEGATIONS MADE IN OLR'S
MAY 15, 2017 POST-HEARING BRIEF**

The Second Amended Complaint set forth 86 factual statements in support of the five (5) allegations of misconduct. In its May 15, 2017 Brief, OLR purports to have proved 174 factual statements by clear and convincing evidence, of which 88 statements were never previously pleaded. If the 88 new factual statements had been set forth in the Second Amended Complaint, Nora would have been prepared to respond to those allegations at the evidentiary hearing or would have stipulated to many of the facts OLR pleaded after the hearing in its May 15, 2017 Brief in early 2016 and would have proceeded to hearing on her defenses to the factual allegations as a matter of law and by facts in justification and mitigation.

If the factual allegations in the Second Amended Complaint set forth the following factual allegations claimed to have been proved in OLR's Brief, there would have been 176 factual allegations in support of the five (5) counts of alleged misconduct. The new factual allegations set forth by OLR in its May 15, 2017 Post-Hearing Brief are excerpted from the Brief and attached hereto as Appendix A. Appendix B attached hereto is what Nora's Answer would have been if the PRC had determined cause for to proceed on the facts set forth by OLR after the

hearing on March 22, March 23, March 24, and March 27, 2017.

ARGUMENT

I. Due Process Issues

A. Nora's rights to due process

B. Nora did not have notice of the new factual allegations set forth in OLR's May 15, 2017 Brief before the proceedings commenced.

The 176 factual allegations in OLR's Brief were required to be pleaded before hearing began. *In the Matter of John Ruffalo, Jr., Petitioner* 390 U.S. 544, 551, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968).

OLR is attempting to amend its charges against Nora, not by proper pleading of allegations to which Nora could prepare and respond, but by post-hearing argument which surprises Nora by multiple factual allegations never made in its Complaints. Apparently, ¶¶1-128 in OLR's argument as to the Spencer Matter and ¶¶1-46 in OLR's argument as to the Rinaldi Matter are another attempt to amend the Second Amended Complaint which it found, *after* the hearing to require multiple new factual allegations. OLR, by factual allegations set forth for the first time in its Post-Hearing Brief, seeks once again to amend its complaint against Nora, without the authority of the PRC as required by SCR 22.11(2).

Had the PRC authorized the filing of allegations which OLR has now pleaded its ¶¶1-128 in OLR's argument as to the Spencer matter and ¶¶1-46 in OLR's argument as to the Rinaldi matter as required by SCR 22.11(2), Nora would have had the opportunity to answer the factual allegations and to prepare her defense and proceed to hearing on the specific allegations set forth

therein. Moreover, if the PRC had determined the new factual allegations and OLR had pleaded the new factual allegations as required by SCR 22.11(4), the matter could have proceeded on partially stipulated facts. Nora would then have been able to focus her defense on the disputed facts and upon erroneous inferences drawn from disputed facts. Nora would have been able to focus her defense on the charges made on the new facts and would have been heard on mitigation without the expensive, extended effort to ascertain the basis for OLR's charges in Counts One, Two, Three, Four and Five.

But, of course, the PRC could not have authorized the filing of the allegations which OLR has now asserted in ¶¶1-128 of OLR's argument as to the Spencer matter and in ¶¶1-46 of OLR's argument as to the Rinaldi matter because OLR used the hearing in this matter to prove facts with which Nora had not been charged. Nora did not have notice of the majority of the factual allegations in ¶¶1-128 of OLR's argument regarding the Spencer matter and in ¶¶1-46 of OLR's argument regarding the Rinaldi matter before the evidentiary hearing began. Furthermore, OLR clearly did not have the authority of the PRC to make the allegations set forth in ¶¶1-128 of OLR's argument as to the Spencer matter and in ¶¶1-46 of OLR's argument as to the Rinaldi matter, which were made, for the first time *after* the evidentiary hearing.

This situation involves a due process violation of the same kind that the United States Supreme Court addressed in *In the Matter of Ruffalo*, 390 U.S. at 551, with the additional violation of Nora's procedural due process rights by the pleading of factual allegations for which the PRC did not determine cause to proceed, contrary to SCR 22.11(2).

The United States Supreme Court held, with respect to lawyer disciplinary proceedings:

These are adversary proceedings of a quasi-criminal nature. Cf. *In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428 1446, 18 L.Ed.2d 527. The charge must be known before the proceedings commence. They become a trap when, after they are underway, the charges are amended on the basis of testimony of the accused. He can then be given no opportunity to expunge the earlier statements and start afresh.

The United States Supreme Court quoted the Sixth Circuit Court of Appeals judge who dissented from the reciprocal discipline in the federal district court:

As Judge Edwards, dissenting below, said, “Such procedural violation of due process would never pass muster in any normal civil or criminal litigation.”

The United States Supreme Court found that adding a charge based on Ruffalo’s testimony violated Ruffalo’s procedural due process rights.

OLR is attempting to amend the factual allegations to support its charges against Nora, not by proper pleading of allegations to which Nora could prepare to defend and proceed to a full hearing as required by the Wisconsin Supreme Court in *State v. Hersh*, supra, at 398, but by post-hearing *argument* which surprises Nora by multiple factual allegations never made in its three (3) Complaints and alleged in its May 15, 2017 Brief. The latter two (2) sets of factual allegations (the Second Amended Complaint and the 176 paragraphs of factual allegations set forth in the May 15, 2017 Brief) were never determined by the PRC under SCR 22.11(2) and were never alleged until *after* the hearing concluded. OLR did not support its new factual allegations by seeking a determination that the new factual allegations were tried with Nora’s consent, which would involve a determination that the facts had been tried by consent. Instead, OLR has cherry-picked the testimony of Nora, Attorney Dykeman and Attorney Carrig out of context from the record and argues OLR proved Counts One, Two, Three, Four and Five by clear and convincing evidence because these statements were made on the record, without Nora having

notice of the factual allegations upon which OLR now seeks to support the charges against her.

OLR, by factual allegations set forth for the first time in its Post-Hearing Brief, seeks to amend its Second Complaint. Apparently, ¶¶1-128 in OLR's argument as to the Spencer Matter and ¶¶1-46 in OLR's argument as to the Rinaldi Matter are an attempt to amend the Second Amended Complaint, *after* the hearing, which would have required a determination of cause to proceed by the PRC under SCR 22.11(2). Had the PRC authorized the filing of allegations which OLR has now pleaded its ¶¶1-128 in OLR's argument as to the Spencer matter and ¶¶1-46 in OLR's argument as to the Rinaldi matter as required by SCR 22.11(2), Nora would have had the opportunity to prepare her defenses, to respond to or answer the factual allegations and proceed to a full hearing on the specific allegations set forth in OLR's May 15, 2017 Brief.

Of course, the PRC could not have authorized the filing of the allegations which OLR has now asserted in ¶¶1-128 of OLR's argument as to the Spencer Matter and in ¶¶1-46 of OLR's argument as to the Rinaldi Matter. Nora clearly did not have notice of the new factual allegations in ¶¶1-128 of OLR's argument as to the Spencer Matter and in ¶¶1-46 of OLR's argument as to the Rinaldi matter before the evidentiary hearing began, contrary to *In re Ruffalo*, 390 U.S. 551 and *State v. Hersh*, 73 Wis. 2d. 398. If she had, she would have answered those factual allegations as set forth in Appendix B.

B. The new factual allegations were not tried by consent and to the extent that OLR purports to support the misconduct allegations with new facts, the new facts are mischaracterized, taken out of context, misstated, ignore the substantial exculpatory evidence and were not proved by clear and convincing evidence.

1. Nora did not consent to trial and was not trial on the unpleaded allegations for which cause to proceed was not determined by the PRC.

Nora did not consent to trial on unpleaded factual allegations and was given notice or opportunity to be heard on the new factual allegations. OLR makes no effort to argue that Nora consented to trial on unpleaded factual allegations for which cause to proceed was not determined by the PRC. For examples, ¶¶16, 29, 33, 34, 35, 36, 37, 38, 39, 40, 41, 100, 102, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 122, 123, 124, 125, 126, 127, and 128 are new factual allegations, never presented to the PRC and never pleaded as the factual basis for the misconduct allegations. Nora did not consent to the ultra vires evidentiary hearing or its location. She was then and there known to be suffering from a partial disability and was guided by her co-counsel through her direct examination which tracked her September 7, 2017 Answer to the Second Amended Complaint. She could not possibly have prepared to defend against unpleaded factual allegations, for which cause to proceed was not determined.

To the extent that evidence was adduced to purportedly support any of the new factual allegations and no objection was made or sustained, she and her co-counsel either allowed the evidence as historical background or objected to the evidence and the objections were overruled. To the extent that Nora testified to any of the approximately 88 the new facts alleged by OLR, her statements have been taken out of context (e.g. ¶¶29, 33, 34, 35, 36, 37, 38, 39, 40, and 41) or misquoted (e.g., ¶102 and 109).

For the first time in its Post-Hearing Brief, OLR alleges that that one of Nora's factual allegations in the Rinaldi Matter was found by Judge Susan V. Kelley to be "preposterous." No where in any of OLR's complaints was Nora put on notice or given the opportunity to be

heard or defend the against the allegation that Nora committed misconduct by making a “preposterous” claim which now appears a new factual allegation in OLR’s Post-Hearing Brief, Rinaldi Statement of Facts at ¶16, so she was never heard in defense against the uncharged and unpleaded allegation.^{10, 11}

Nora understands that the proposition that entities that are national banking associations (carefully regulated until the Glass-Steagall Act was repealed) created loan pools which were designed to fail in order in order to collect the claimed indebtedness from third parties may have seemed like a preposterous claim (far beyond implausible) in 2012 when the Rinaldi adversary proceeding was filed.¹² Had Nora been charged with making a “preposterous” claim, she would have notice and opportunity to defend against the charge by producing clear and convincing evidence that the securitization process was designed to fail and did indeed fail. Nora was never

¹⁰ In federal practice, unlike Wisconsin state practice, judges are allowed to determine the plausibility of claims for relief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S. Ct. 1955, 167 L. Ed. 2d 929, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed2d 868, 556 U.S. 662 (2009). The requirement that a judge make a plausibility determination tends to suggest that a statement of the plausibility of a claim for relief has been stated should be determined and here the plausibility one of the Rinaldis’ claims for relief was determined to not just be implausible, but was believed to be “preposterous.” The claim that appeared to be to Judge Kelley was set forth in ¶ 82 of the Adversary Complaint. Judge Kelley found:

Debtors leap to the conclusion that the Wells Defendants designed the entire transaction so that the loan pool would fail and the “losses would be borne and their loan would be paid by third parties not involved in the contract between Wells Fargo Bank, N.A. and the Plaintiffs.” (Id., ¶82).

¹¹ What seems to be preposterous is actually a common practice known as securitization in which of the national banking associations acted as undisclosed warehouse lenders to loan originators who obtained notes and mortgages for sale to undisclosed third parties in the “private-label securitization” process using Real Estate Mortgage Investment Conduit (REMIC) Trusts.

¹² See, however, <https://www.usnews.com/opinion/blogs/economic-intelligence/2012/08/27/repeal-of-glass-steagall-caused-the-financial-crisis>

put on notice that she was charged with the new factual allegation in ¶16 of the Rinaldi Matter and was denied the opportunity to prepare or be heard on the new factual allegation. Regardless of her initial finding that the Rinaldis claims were in any way “frivolous” or “preposterous” Judge Kelley approved the Stipulated Order (Exhibit 300) that made no finding that the Rinaldis claims were “frivolous.” Exhibit 300 disposes of the OLR’s new factual allegation in ¶16 of the Rinaldi Matter.

Nora is also charged, for the first time in ¶128 of OLR’s Statement of Facts in the Spencer Matter of not paying the attorneys’ fees awarded against Ms. Spencer and not against Nora for the “objectively unreasonable removal” of the Spencer foreclosure case to federal district court upon the December 30, 2012 discovery that the Federal Home Loan Mortgage Corporation (Freddie Mac) was the real party in interest based on its published admission that Freddie Mac owned Ms. Spencer’s loan. Nora was given no notice or opportunity to defend against the new factual allegation in ¶128.

While OLR argues that the attorney’s fees awards have not been paid, Nora was never allowed to be heard on appeal and was, therefore, precluded from indemnifying Ms. Spencer in the appellate proceedings. Ms. Spencer was left standing as the only party liable for payment of the attorney’s fees awards and OLR’s suggestion that nonpayment of the attorney’s fees is evidence of Nora’s disrespect for court orders is misplaced. Nora tried to obtain an order of attorney’s fees against Nora, not Ms. Spencer, by filing the appeal in her own name as well as that of Ms. Spencer.

If Nora had been charged with misconduct based on the new factual allegation set forth in ¶128, she could have explained that she did not list PNC Bank, N.A. as a creditor in the United

States Bankruptcy Court for the District of Minnesota (MNB) Case No. 15-41022 because if one thing is certain from the Spencer removal proceedings and the appeal to the Seventh Circuit Court of Appeals, she did not owe anything to PNC Bank, N.A. She would have proved that she named Sheila M. Spencer as a creditor in her bankruptcy MNB Case No. 15-41022 based on her duty to indemnify Ms. Spencer.

Some of Nora's statements in OLR's are mischaracterized to suggest conduct Nora denies. See for example, ¶8 of the OLR's Statement of Facts in the Spencer Matter, the e.g., "Nora failed to give a satisfactory explanation how entry of an order she said she had not seen affected her obligation to file the list of issues. [OLR's] Ex. 13 (¶8). Nora was never charged with failing to give a satisfactory explanation of how entry of the June 12, 2012 Order (Ex. 12) affected her preparation of the list of issues but it is perfectly obvious to any experienced attorney or even to a lay person that the contents of an order which addresses an obligation must be received before it is possible to comply.

OLR's new factual allegation at ¶16 reads "Nora could not explain how Judge Potter would have known that the Gray Firm had not sent her a copy of the letter and proposed order or that she had not received a copy of the letter and proposed order." OLR's Ex. 12 clearly shows that Nora did not approve the form of the proposed Order and OLR's Ex. 19 shows that Wood County Circuit Court has no five (5) day rule under which approval as to forms of orders are waived in, for examples, Milwaukee County and Waukesha County.

OLR changed the language Nora never used in the Spencer case from accusing the judge in the foreclosure action of "fraudulently manipulating" the May 23, 2012 Transcript (new allegation in ¶102) to "intentionally manipulating" the May 23, 2012 Transcript (new allegation

in ¶109) when what Nora actually wrote appears at ¶17 of OLR's Ex. 20 and reads:

17. It is unthinkable but unavoidable to consider that Judge Potter and/or the court reporter edited the Transcript of the hearing on May 23, 2012 to make it appear that Judge Potter was less biased than he is and to remove any reference to trial, which word was stated by counsel for Sheila M. Spencer in her statement in which the word "quickly" was used (Transcript, page 5, line 20) and Judge Potter's use of the word trial was converted to "hearing" (Transcript, page 19, line 18.) (Emphasis added.)

See Transcript of the March 27, 2017 hearing at T. 674:1-14 attached hereto as Request for Judicial Notice, Exhibit 20.

Nora was prepared and did defend on the allegations involving the transcript issue. OLR refuses to acknowledge the good faith factual basis for the filing by misquoting her twice in ¶102 and ¶109 and using different phrases "fraudulently manipulated" and "intentionally manipulated" when Nora used neither of those phrases.

2. OLR has omitted Nora's exculpatory evidence and testimony.

OLR not only wholly ignores the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual*, Offer of Proof Exhibit 528, sub-exhibit 4 in OLR's statements of new facts, which was the basis for the Rule 60(b) Motion in the Rinaldi matter, it is evidence which exculpates Nora in the Rinaldi matter which has been in the possession of OLR since the investigation into the Rinaldi matter began. The *Wells Fargo Home Mortgage Attorneys Foreclosure Manual* (Offer of Proof, Exhibit 528, sub-exhibit 4) is the most significant part of Nora's defense to the allegations that the April 2, 2013 Rule 60(b) Motion was filed in violation of SCR 20:3.1(a).

It also seems preposterous that a national banking association would create instructions to its out-of-house attorneys to request that missing documents be manufactured for use in foreclosure cases. The *Wells Fargo Home Mortgage Attorneys Foreclosure Manual* forms a substantial part of Nora's defense to the original allegations of fact and misconduct in Counts

Four and Five, establishes selective and vindictive prosecution defense and supports her reserved Motion for Damages under Wis. Stat. sec. 895.044. The *Wells Fargo Home Mortgage Attorneys Foreclosure Manual* wholly supports the Rinaldis' Motion to Vacate Judge Stadtmueller's Judgment.

The *Wells Fargo Home Mortgage Attorneys Foreclosure Manual* is new evidence discovered within one year as allowed by Fed. R. Civ. P. 60(b)(2); it is evidence of fraud or other misconduct by an opposing party under Fed. R. Civ. P. 60(b)(3); its discovery is a reason why the October 31, 2013 Judgment should not have prospective effect (Fed. R. Civ. P. 60(b)(5); and it is another reason why the October 31, 2013 Judgment should be vacated Fed. R. Civ. P. 60(b)(6). Finally, and most importantly, because forged documents convey no rights, any judgment on a claim or defense based on a forged document is void. *State Bank of Drummond v. Christophersen*, 93 Wis.2d 148, 155, 286 N.W.2d 547, 551(Wis., 1980). Nora brought the Rinaldis' Motion to Vacate the October 13, 2013 Judgment pursuant to supported by the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual* on April 2, 2014 not just for the Rinaldis' benefit but for her own defense of the pending sanctions proceedings initiated by counsel for Wells Fargo Bank, N.A. and Gray & Associates, LLP under Fed. R. Bankr. P. 9011 and because she had been ordered to pay \$1,000.00 as a sanction by Judge Stadtmueller.¹³

¹³ Nora believed that she had standing to appeal on her own behalf even under the Seventh Circuit Court of Appeals narrow standing rule, which Nora had argued in good faith should be modified or extended to situations like hers vis à vis Ms. Spencer in which she had a duty to indemnify Ms. Spencer for the legal position she took on Ms. Spencer's behalf by removing her foreclosure case to federal court based on the discovery of Freddie Mac's claimed ownership of Ms. Spencer's loan.

II. The Substantive Issues Actually Tried

A. The Spencer Matter (Counts One, Two and Three)

1. Count One—Violation of SCR 20:3.1(a)

OLR asserts that Nora knew that there was no “objectively reasonable” basis for the January 10, 2013 Notice of Removal of the Spencer foreclosure case from state court to federal jurisdiction. Nora believes in good faith that there was an objectively reasonable basis for the removal of the Spencer case to the federal district court.

On December 30, 2012, Nora discovered that the Federal Home Loan Mortgage Corporation (Freddie Mac) claimed to “own” Ms. Spencer’s Mortgage. Freddie Mac was then and there in conservatorship of the Federal Housing Finance Agency (FHFA) and Nora believed that 79.9 percent (79.9%) of Freddie Mac’s capital stock was owned by the United States Treasury. Nora believed in good faith that Freddie Mac’s claimed ownership of the beneficial interest in Ms. Spencer’s Note and Mortgage gave rise to original federal jurisdiction under 28 U.S.C. sec. 1349, notwithstanding the allegation by then attributed to PNC Bank, N.A. as successor in interest to National City Bank, N.A., that it was the owner and holder of the Note in ¶4 of the Foreclosure Complaint in Wood County Circuit Court Case No. 2009CV000283. OLR Ex. 5. The Notice of Removal was filed on January 10, 2013. Nora knew that Freddie Mac was required by its policies to take all reasonable and necessary steps to preserve home ownership.

a. Count One—SCR 20:3.1(a)(1)

Nora’s position is that her removal of the Spencer foreclosure from state court to federal court was based on existing law or a good faith argument for the extension of existing law and was not contrary to the prohibition at SCR 20:3.1(a)(1), that her first Motion for Reconsideration

was intended to address the objectively reasonable basis for the removal in opposition to the discretionary award of attorney's fees against Ms. Spencer, and that her second Motion for reconsideration was intended to clarify that the first Motion for Reconsideration sought to have the award of attorney's fees reconsidered only. The appeal to the Seventh Circuit Court of Appeals was undertaken from the award of attorney's fees against Ms. Spencer. Nora joined in the appeal from the attorney's fees award because Ms. Spencer had followed her advice in filing the Notice of Removal.

If the award of attorney's fees was for a "frivolous" filing the Motions for Reconsideration in the district court could only hold Nora, and not Ms. Spencer, liable. Represented parties are not liable for the legal positions taken by their attorneys under Fed. R. Civ. P. 11(c)(5). If Judge Crabb believed that Nora violated Fed. R. Civ. P. 11(b)(2) by filing the Motions for Reconsideration, Nora was entitled to proceedings by Order to Show Cause under Fed. R. Civ. P. 11(c)(3). Ms. Spencer could not be held liable for Nora's filings of the Motions for Reconsideration under Fed. R. Civ. P. 11(c)(5). Therefore, Nora believed in good faith that she was a proper party to proceed on appeal to indemnify Ms. Spencer.

b. Count Two—SCR 20:3.1(a)(2)

Nora's contention that federal jurisdiction was established by the December 30, 2012 discovery that Freddie claimed ownership of Ms. Spencer's Mortgage was based on the fact of Freddie Mac's claimed ownership of Ms. Spencer's Mortgage and Nora did not act contrary to the prohibition at 20:3.1(a)(2). Nora had a sufficient factual basis for the assertion of federal jurisdiction in the January 10, 2013 Notice of Removal—the fact of Freddie Mac's claimed ownership of Ms. Spencer's Mortgage, discovered on December 30, 2013.

c. SCR 20:3.1(a)(3)

OLR's original, first and second amended Complaints did not allege any facts in support of an allegation that Nora filed the Notice of Removal "merely to harass or maliciously injure another." Suddenly, for the first time in its Post-Hearing Brief, and not by notice by the pleading of any facts that Nora was being charged with filing the Notice of Removal in violation of SCR 20:3.1(a)(3), OLR contends that Nora filed the Notice of Removal in violation of SCR 20:3.1(a)(3) when it was obvious that Nora did so "merely to harass or maliciously injure" PNC Bank, N.A. Nora's purpose in filing the Notice of Removal was the sufficient factual basis of evidence of Freddie Mac's claimed ownership of Ms. Spencer's Mortgage (which was later admitted and then uncontroverted) and the good faith argument that the federal courts have original jurisdiction over corporations chartered by Congress in which more than one half of the capital stock is owned by the United States under 28 U.S.C. sec. 1349.

2. Count Two—SCR 20:3.2

Contrary to OLR's contentions, Nora's conduct by removing the Spencer foreclosure to federal court under 28 U.S.C. sec. 1447 of which OLR complains did not delay the foreclosure proceedings in the Spencer case in violation of SCR 20:3.2. There is no evidence that the foreclosure action was delayed by the removal, under which the foreclosure action would still have proceeded, albeit in federal jurisdiction. The Third Motion for Summary Judgment in the Spencer foreclosure case was not filed by PNC Bank, N.A., now conclusively shown to have been the servicing agent for the Federal Home Loan Mortgage Corporation (Freddie Mac) until September 13, 2013, almost six (6) months after the March 25, 2013 Remand Order. Contrary to the allegations of OLR, Nora did not contest the Remand Order. On Ms. Spencer's behalf, Nora

only contested the award of attorney's fees for the removal of the foreclosure action within 30 days after it was discovered that Freddie Mac was the real party in interest—a fact which was subsequently vaguely and then conclusively admitted—as not being “objectively reasonable.” There was no delay attributable to the Notice of Removal or the appeal from the award of attorney's fees. Nora Exhibit 310.

3. SCR 20:8.4(g)

Contrary to OLR's contentions, Nora's conduct in the Spencer matter did not violate the Attorney's Oath.¹⁴ For the first time in its Post-Hearing Brief, OLR sets forth specific factual statements purporting to support the charge that Nora disrespected judicial officers, depriving her of notice and opportunity to defend against the specific statements which OLR alleges she made. OLR seeks to rely on *Office of Lawyer Regulation v. Sommers*, 339 Wis.2d 580, 811 N.W.2d 387, 2012 WI 33 (Wis., 2012). Attorney Sommers was charged with violating his oath by being disruptive in a court proceeding. OLR quotes at length from the Wisconsin Supreme Court's

¹⁴ SCR 40.15 Attorney's oath. The oath or affirmation to be taken to qualify for admission to the practice of law shall be in substantially the following form:
 I will support the constitution of the United States and the constitution of the state of Wisconsin;
 I will maintain the respect due to courts of justice and judicial officers;
 I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land;
 I will employ, for the purpose of maintaining the causes confided to me, such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;
 I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval;
 I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;
 I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.
 So help me God.

opinion in Attorney Sommers' disciplinary proceedings. Although there is a similarity between Attorney Sommers and Nora to the extent that both pursued vigorous advocacy of their clients causes, Nora has never disrupted a court proceeding.

OLR also cites to *Disciplinary Proceedings Against Beaver, Matter of*, 510 N.W.2d 129, 181 Wis.2d 12 (Wis., 1994). Nora does not challenge the constitutionality of holding attorneys accountable for violations of their oath in disciplinary proceedings, where appropriate and, properly applied, SCR 40.15 enforceable via SCR 8.4(g) is not unconstitutional. Indeed, all attorneys are required to and should be able to conform to the expectations of their oaths. Sometimes part of the oath might conflict with another part of the oath. For example, while an attorney must maintain the respect due to judges and judicial officers, the attorney's duty to uphold the *Constitution of the United States* and the *Constitution of the State of Wisconsin* and if an attorney believes in good faith that his or her client's constitutional rights are being violated, it is a defense that conduct which may appear to violate the oath in one respect (maintaining respect due to judicial officers) was required to uphold the oath, in another respect ("I will . . . advance no fact prejudicial to the honor or reputation of a party or witness, **unless required by the justice of the cause with which I am charged**"), in the judgment of the attorney.

Nora did not violate her oath in her representation of Ms. Spencer, but should not have used her personal dispute in another (her personal) case with Judge Barbara B. Crabb as jurisdictional grounds for her own appeal to the Seventh Circuit of Appeals in an effort to protect Ms. Spencer. The indemnification argument was sufficient in and of itself and raising the medical records issue from another case detracted from, rather than enhanced, the jurisdictional argument, although the invasion of privacy by disclosure of Nora's confidential medical records,

filed under seal in Case No. 10-cv-68 was a species of defamation and because they were in writing, the act was a species of libel. What is unrecognized, however, is that Nora knows that Judge Crabb is immune from being sued civilly for her judicial acts, even if the acts were malicious. Although Nora agrees that she is an experienced attorney, and very experienced in foreclosure and ADAA cases compared to most attorneys in the communities where she practices, she was horrified that her confidential medical information from a short, totally disabling episode in 2010 was published by Judge Crabb in an effort to hold Attorney David M. Potteiger, an inexperienced attorney, and his more experienced supervisor harmless from Nora's contempt proceedings against them. Nora's confidential medical records had been filed under seal by order of Magistrate Judge Crocker in Case No. 10-cv-68. See Request for Judicial Notice, Exhibit 21, Entries 7 and 10). OLR has taken Nora's statements out of context and misconstrues the meaning of her statements and incorrectly attributes legal positions to Nora which Nora did not take.

B. The Rinaldi Matter (Counts Four and Five)

1. Count Four–SCR 20:3.1(a) never pleaded or addressed with specificity

For its “analysis,” OLR merely incorporates its “analysis” of Count One in the Spencer Matter. The findings of Judge Kelley, Judge Stadtmueller and the Seventh Circuit Court of Appeals panel do not establish that Nora violated any of the three (3) subsections of SCR 20:3.1(a). The vagueries of OLR's Post-Hearing Brief as to the basis for its charges exemplifies the due process violations in these proceedings and OLR's omission of the exculpatory evidence of the Wells Fargo Home Mortgage Attorneys Foreclosure Manual, the discovery of which led to the filing of the Rule 60(b) Motion discussed at length above and at the hearing on March 27,

2017 at T. 762-772 (Request for Judicial Notice, Exhibit 22) was the good faith basis for the filing of the Motion.

Were it not for the discovery of the new evidence of the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual* to which Nora testified at length and directed Attorney Winiarski attention to the specific instructions to outside counsel for ordering manufactured documents, Nora would not have brought the Motion for Relief from Judgment under Fed. R. Civ. P. 60(b)(2), (3), (4), (5), and (6). That is why Offer of Proof, Exhibit 528, sub-exhibit 4 is so significant in these proceedings. March 27, 2017 Transcript at T. 762-772, Request for Judicial Notice, Exhibit 22.

2. Count Five—SCR 20:3.2

There is no evidence whatsoever that Nora's conduct in the adversary proceedings, the appeal from and review sought of the recommendations of Judge Susan V. Kelley to United States District Court Judge Joseph P. Stadtmueller or the appeal to the Seventh Circuit Court of Appeals Kelley in any way delayed any proceedings involving the Rinaldis. In fact, the Rinaldis dismissed their Chapter 13 Case on March 5, 2014, based on their inability to make their Chapter 13 Plan payments and no new foreclosure action was commenced against the Rinaldis until May 2, 2017. No position taken by Nora in the adversary proceeding filed on June 18, 2012 and amended on August 23, 2012, heard by the appeal to the district court and the on Objections to the Report and Recommendations and on appeal to the Seventh Circuit Court of Appeals caused any delay whatsoever in the Rinaldi Matter.

CONCLUSION

Had the PRC found cause to proceed on the factual allegations which OLR set forth in its May 15, 2017 Post-Hearing Brief and OLR had pleaded those facts before the hearing commenced, Nora would have notice of the charges, the opportunity to be prepare her defense and the opportunity for a full hearing on the charges, as required under *State v. Hersh*, supra. The new factual allegations made for the first time after the hearing violate the due process principles set for in *In re Ruffalo*, supra.

Nora produced substantial evidence of her good faith factual and legal grounds for the positions she took in the Spencer and Rinaldi Matters, that her positions were not interposed for the purpose of delay, and that she had not violated her oath as an attorney at the evidentiary hearing despite all the obstacles she encountered in her effort to be heard.

OLR apparently recognized that it failed to prove the factual and misconduct allegations in the Second Amended Complaint and Nora agrees that it failed to do so. OLR then submitted new factual allegations for which cause to proceed was not determined by the PRC in its May 15, 2017 Post-Hearing Brief. Nora had no notice, no opportunity to prepare her defense and she did not have a full hearing on the new factual allegations. OLR's new factual allegations cannot be considered *after* the hearing concluded.

As to the substantive issues for which Nora had notice and opportunity to prepare to defend and be heard, OLR failed to meet its burden of proving the misconduct allegations by clear and convincing evidence and the Second Amended Complaint to which Nora objected as having not been authorized by the PRC must be dismissed.

Dated at Madison, Wisconsin this 23rd day of February, 2018

AN IMAGE OF THE SIGNATURE BELOW
SHALL HAVE THE SAME FORCE AND EFFECT AS THE ORIGINAL

A handwritten signature in cursive script, reading "Wendy Alison Nora", written in black ink. The signature is positioned above a horizontal line.

Wendy Alison Nora

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APPENDIX A

I. CLEAR, SATISFACTORY AND CONVINCING EVIDENCE SUPPORTS THE COUNTS ARISING OUT OF THE SPENCER MATTER.

The record in relation to the Spencer Matter shows the following:

- 2

2. Nora's involvement commenced in early May 2012 when she filed a notice of appearance for defendant Sheila Spencer and a motion to postpone a hearing on a summary judgment motion scheduled for May 23, 2012. Transcript ("Tr.") at 316:3-319:19; Ex. 1:3-4 (CCAP¹ Items 32, 36-38).

3. Nora appeared in person at the May 23, 2012 hearing. Tim Brovold, an attorney from Gray & Associates, S.C. ("Gray Firm"), counsel for the plaintiff, appeared by telephone. Judge Gregory Potter, the presiding judge, granted Nora the postponement she sought and directed Nora to file and serve a list of issues on or before June 29, 2012. Ex. 8; Ex. 9:1, 15-16; Tr. at 319:21-325:12.

4. Nora did not file the list of issues by June 29, 2012 as directed by the court. Instead, on June 27, 2012, she filed an "Affidavit of Nonreceipt of Motion for Proposed Order and Final Order." Ex. 1:4 (CCAP Item 43); Ex. 13; Tr. at 325:13-326:6.

5. Nora testified she filed the June 27, 2012 affidavit with a motion dated June 28, 2012, for an extension of time to file the list of issues (Tr. at 348:4-20), but the CCAP record and court record index show these as separate filings. Ex. 1:4-5; Ex. 2:3.

6. In her June 27, 2012 affidavit, Nora stated that she had reviewed the CCAP record, that she was "shocked to find that an Order was entered in these proceedings on June 12, 2012," and that she had not been served with a motion seeking entry of an order after the May 23, 2009 hearing. Ex. 13:2, ¶¶ 3, 4.

¹ CCAP is an acronym for the State of Wisconsin "Consolidated Court Automation Programs." Wisconsin courts have taken judicial notice of CCAP records. *See, e.g., Kirk v. Credit Acceptance Corp.*, 2013 WI App 32, ¶ 5 n.1, 346 Wis. 2d 635, 829 N.W.2d 522.

7. In her June 27 affidavit, Nora stated that she “needed the order for the deadline of June 28, 2012” (Ex. 13:2, ¶ 9), referring to her obligation to file and serve the list of issues by the June 29, 2012 deadline. Tr. at 337:4-17.

8. Nora’s June 27 affidavit contains no satisfactory explanation how entry of an order she said she had not seen affected her obligation to file the list of issues. Ex. 13.

9. In her June 27 affidavit, Nora stated that the court’s clerk told her that the Gray Firm had sent the order and a letter to Judge Potter. Ex. 13:2, ¶¶ 10-12.

10. Nora made no effort to contact the Gray Firm to obtain a copy of what had been sent to the court. Tr. at 338:17-340:2.

11. In her June 27 affidavit, Nora described the Gray Firm’s conduct regarding the order as an “ex parte communication with the Court.” Ex. 13:3, ¶¶ 13-16.

12. In her June 27 affidavit, Nora stated that she was considering the possibility of “moving to disqualify Judge Potter for ex parte communications with GRAY & ASSOCIATES, L.L.P.” Ex. 13:4, ¶ 17.e.

13. The June 28, 2012 motion filed by Nora states that Spencer seeks “the Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte Communications and Entering Ex Parte Orders in These Proceedings.” Ex. 14:1.

14. In her June 28 motion, Nora refers to the Spencer proceeding as a “mockery of justice” (*Id.*, 14:2, ¶ 1) and as “these misbegotten proceedings” (*Id.*, 14:2, ¶ 3).

15. In her June 28 motion, Nora stated that on June 27, 2012, she received from her client copies of a letter to the court dated May 25, 2012 and a signed order filed June 12, 2012 (*Id.*, 14:3, ¶ 8). Nora acknowledged that Exhibit 10 was a copy of the letter and

Exhibit 12 was a copy of the order referred to in her June 28 motion and in her June 27 affidavit. Tr. at 360:3-363:1.

16. The letter of transmittal dated May 25, 2012 and proposed order shows a carbon copy to Nora. Ex. 10:1. Nora could not explain how Judge Potter would have known that the Gray Firm had not sent her a copy of the letter and proposed order or that she had not received a copy of the letter and proposed order. Tr. at 364:11-25.

17. In her June 28 motion, Nora stated that “[t]his is not the first instance of ex parte communications leading to orders being entered by Judge Gregory J. Potter. Ex. 14:4, ¶ 22. Nora referred to three purported prior instances: a filing on March 31, 2010 (Ex. 14:4-5, ¶ 23.a.); (2) a pair of letters dated February 17, 2011 (*Id.*, ¶¶ 23.c. and 23.d.); and a motion to vacate a summary judgment dated June 17, 2011 (*Id.*, ¶ 23.e.).

18. In her June 28 motion, Nora referred to the “recent ex parte order” as “another example of the improper practices in these proceedings.” *Id.*, ¶ 24.

19. In her June 28 motion, Nora stated that “the secret proceedings held in this matter constitute a miscarriage of justice and that those practices continued in the ex parte order changing the substance of the Court’s order entered on the record of the proceedings on May 23, 2012.” Ex. 14:6, ¶ 26.

20. In her June 28 motion, Nora stated that “[a] reasonable inference arises from these facts that Judge Gregory J. Potter has colluded with GRAY & ASSOCIATES, LLP to circumvent proper practice and procedure by engaging in and facilitating ex parte communications by which orders have been entered by the court.” *Id.*, ¶ 31.

21. Nora demanded that Judge Potter recuse himself based on SCR 60.04(4)(g),

which generally proscribes ex parte communications, and SCR 60.04(e), which states that “[a] judge shall perform judicial duties without bias or prejudice.” Ex. 14:7-8, ¶ 37.

22. Nora had no personal knowledge as to the alleged ex parte communications prior to her appearance in the case. Her knowledge was limited to what was shown in the court record and what others told her. Tr. at 31:11-17.

23. As to the alleged March 31, 2010 ex parte communication, an affidavit of a Gray Firm employee shows that on that date Spencer was served a copy of a Notice of Motion and Motion filed with the court on April 5, 2010. Ex. 15; Tr. at 418:17-419:9.

24. As to the alleged February 17, 2011 ex parte communication, the court record shows that the letter to the court cancelling a hearing was copied to Sheila Spencer. Ex. 16; Tr. at 368:16-369:6.

25. As to the alleged June 20, 2011 ex parte communication, the court record shows that the letter to the court filing a petition and order to vacate the judgment was copied to Sheila Spencer. Ex. 18; Tr. at 370:3-371:1.

26. On June 23, 2012, Nora filed a “Notice of Continuing Objection to Further Proceedings.” The Notice seeks “Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte Communications and Entering Ex Parte Order [sic.] in these Proceedings” Ex. 19:1; Tr. at 379:19-381:7.

27. On June 25, 2012, Nora filed an “Amended Notice of Continuing Objection to Further Proceedings.” Ex. 20; Tr. at 404:6-16. The only difference between the Notice and the Amended Notice is that the name of Attorney Timothy Mark Brovold of the Gray Firm appears in paragraph 4 of the Amended Notice. Tr. at 407:19-414:3.

28. In her “Continuing Objection,” Nora alleged that the Gray Firm had made “multiple fraudulent filings” in the case. Ex. 20:3, ¶ 7; Tr. at 389:2-5.

29. In her “Continuing Objection,” Nora stated that the alleged non-service of the proposed order entered on June 12, 2012 was part of “an actual pattern and practice by Judge Potter and [the Gray Firm], acting in concert, to effectuate a fraudulent foreclosure against Sheila M. Spencer and her home.” Ex. 20:4, ¶ 8; Tr. at 389:6-16.

30. In her “Continuing Objection,” Nora stated that the “ex parte order should never have been considered for signing by Judge Potter and now the entire record of the proceedings must be reviewed in the light of apparent collaboration between Judge Potter and [the Gray Firm].” Ex. 20:6, ¶ 11; Tr. at 390:3-14.

31. In her “Continuing Objection,” Nora stated the Gray Firm had engaged in “conniving to procure the June 12, 2012 ex parte order of Judge Potter to reverse what it perceived as a loss on the record of the May 23, 2012 proceedings.” Ex. 20:6, ¶ 12; Tr. at 390:20-391:1.

32. In her “Continuing Objection,” Nora stated that a complete review of the record was required “in light of apparent collaboration between Judge Potter and the lawyers from [the Gray Firm].” Ex. 20:6, ¶ 13; Tr. at 391:2-7.

33. In her “Continuing Objection,” Nora stated that:

Whereas it was first thought that Judge Potter was confused and was, as a result of pride, unable to admit to his confusion, it is now clear that Judge Potter is not confused but is actually participating in a manipulation of the proceedings to deny Sheila M. Spencer the opportunity to be heard in defense of her rights to her home.

Ex. 20:6, ¶ 14; Tr. at 391:8-17 (emphasis added).

34. In her “Continuing Objection,” Nora stated that:

The manipulation of the Transcript to remove some of the most damning evidence of bias ... discloses a whole new issue: that Judge Potter is complicit in the manipulation of the proceedings and of the record.

Ex. 20:6, ¶ 15; Tr. at 391:18-392:5 (emphasis added).

35. In her “Continuing Objection,” Nora stated that “the ‘civil filings’ clerk was participating in the scheme to deprive this counsel of copies of documents which she did not receive.” Ex. 20:6, ¶ 16; Tr. at 392:6-12.

36. In her “Continuing Objection,” Nora stated that Judge Potter had not removed himself from the case “because he is now being shown to be actively assisting” the Gary Firm. Ex. 20:7, ¶ 18; Tr. at 393:6-394:17.

37. In her “Continuing Objection,” Nora referred to Judge Potter as being “[c]omplicit in the long and convoluted proceedings whereby false documents and ex parte proceedings are the modus operandi of Gray & Associates, LLP supported by Judge Potter.” Ex. 20:7, ¶ 19; Tr. at 394:18-24.

38. Although Nora testified that she did not accuse Judge Potter of “turning a blind eye to crimes committed within the court process itself” (Tr. at 402:14-403:1), in her Continuing Objection Nora stated that:

Civil courts cannot be subverted by allowing crimes to go undetected by its officers, including Judge Potter and Sheila M. Spencer's counsel, and Judge Potter and counsel for Sheila M. Spencer cannot turn a blind eye to crimes to be committed within the court process itself.

Ex. 20:8, ¶ 25; Tr. at 402:14-403:1.

39. In her “Continuing Objection,” Nora stated that “Judge Potter has not seen

fit to recuse himself yet from these proceedings even after being exposed for ex parte communications and having presided over proceedings which bear no resemblance to proper, neutral court proceedings.” Ex. 20:9, ¶ 32; Tr. at 403:2-10.

40. In her “Continuing Objection,” Nora stated that Judge Potter “has continued to interfere with the just and proper administration of Wood County Circuit Court.” Ex. 20:9, ¶ 34; Tr. at 403:11-16.

41. In her “Continuing Objection,” Nora stated that Judge Potter “has clearly disqualified himself by his knowing complicity in the miscarriage of justice represented by the proceedings in this case, through ex parte orders and manipulations of the proceedings to do the bidding of [the Gray Firm].” Ex. 20:9, ¶ 35; Tr. at 403:17-404:4.

42. After hearing on August 8, 2012, Judge Potter denied Nora’s motion seeking his disqualification in the Spencer case. Ex. 21; Ex. 309; Tr. at 414:9-416:18.

43. On August 13, 2012, Nora filed the list of issues as directed by the court at the May 23, 2012 hearing. Ex. 7A; Tr. at 417:7-14.

44. In the list of issues, Nora repeats her allegations about ex parte communications between the Gray Firm and Judge Potter made in her June 27 “Affidavit of Non-Receipt,” in the June 28 motion seeking recusal of Judge Potter, and in the original and amended “Continuing Objection,” she had filed in the Spencer matter. Ex. 7A:6-10, ¶ 29; Exs. 13, 14, 19, 20; Tr. at 418:3-420:13.

45. On October 3, 2012, Attorney James Carrig first appeared for the plaintiff in the Spencer matter. Ex. 1:7 (Item 71); Tr. at 11:11-16.

46. On October 29, 2012, Carrig filed a notice of appearance for the plaintiff in

the Spencer matter. Ex. 1:7 (Item 72); Tr. at 11:18-12:2.

47. In response, Nora filed a motion to strike Carrig's notice of appearance. Ex. 1:7 (Item 74); Tr. at 12:3-24.

48. On December 5, 2012, the court conducted a hearing relative to Nora's objection to Carrig's appearance and to whether PNC Bank was a proper party to the Spencer case. Ex. 1:8 (Item 80); Tr. at 15:12-17:10.

49. On December 13, 2012, Carrig filed a motion to ratify the action or to substitute PNC Bank as the party plaintiff. Ex. 1:8 (Items 81-83); Tr. at 17:12-18:14.

50. On December 21, 2012, Nora filed a response to Carrig's motion to ratify or substitute PNC Bank as the plaintiff. Ex. 1:9 (Items 88, 89); Tr. at 17:12-18:14.

51. After hearing on December 21, 2012, Judge Potter granted the motion Carrig filed for PNC Bank and set a hearing date of March 18, 2013 for the pending motion for summary judgment. Ex. 1:8 (Item 86); Tr. at 20:4-21:20.

52. On January 10, 2013, Nora filed a notice of removal of the Spencer case to the United States District Court for the Western District of Wisconsin. Ex. 23; Tr. at 22:1-13.

53. Prior to removing the case to federal court, Nora did not file anything with the state court with respect to an entity referred to as "Freddie Mac." Tr. at 26:4-7.

54. Nora's notice of removal asserted that the Spencer case was removable under 28 USC secs. 1331, 1332, 1334 and 1349. Ex. 23:2.

55. On February 8, 2013, Carrig filed a motion on behalf of PNC Bank to remand the Spencer case to state court. Ex. 3:2; Ex. 24; Tr. at 26:20-28:20.

56. On March 4, 2013, Nora filed a brief opposing PNC Bank's motion to remand the Spencer case. Ex. 3:3; Ex. 25; Tr. at 28:21-29:23.

57. On March 25, 2013, United States District Court Judge Barbara Crabb issued an Opinion and Order granting PNC Bank's motion to remand and granting PNC Bank attorney fees and costs. Ex. 26; Tr. at 29:24-30:9.

58. On April 5, 2013, Carrig filed an itemized request for fees and costs for PNC Bank. Ex. 27; Tr. at 30:10-31:3.

59. On April 8, 2013, Nora filed a motion for reconsideration of Judge Crabb's March 25, 2013 Opinion and Order. Ex. 28; Tr. at 31:3-14.

60. Although she testified she did not file a motion for reconsideration of the remand order and only sought reconsideration of the award of attorney fees (Tr. at 689:13-690:8), forty-one of the forty-three numbered paragraphs of Nora's motion for reconsideration are devoted to asserting that Judge Crabb erred in remanding the Spencer case to state court. Ex. 28; Ex. 39:3.

61. The motion for reconsideration "requests that the court reconsider the Order remanding this case to state court entered on March 25, 2013 for its clear errors of law in failing to acknowledge and exercise its original jurisdiction" Ex. 28:8.

62. The motion for reconsideration was not limited to addressing the award of attorney fees and costs to PNC Bank. Ex. 28.

63. On April 15, 2013, Carrig filed a brief for PNC Bank opposing Nora's motion for reconsideration. Ex. 3:3 (Entry 19); Tr. at 32:6-17.

64. On April 15, 2013, Nora filed an Objection to Award of Attorneys' Fees

and Reply on Motion for Reconsideration. Ex. 20; Tr. at 31:15-25.

65. In her reply, Nora sought reconsideration of the decision to remand and asserted that “the remand is appealable as decided on grounds other than those set forth in 28 USC sec. 1447(c).” Ex. 29:6 (para. 18).

66. On May 23, 2013, Judge Crabb issued an Opinion and Order denying the motion for reconsideration, characterizing the motion for reconsideration as “frivolous,” and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 30:1, 7.

67. In the May 23, 2013 Opinion and Order, Judge Crabb held that the court lacked jurisdiction to reconsider the remand order. Ex. 30:2.

68. In the May 23, 2013 Opinion and Order, Judge Crabb held that because Spencer “did not have an objectively reasonable argument supporting federal jurisdiction, it is appropriate to award plaintiff fees incurred in its motion to remand.” Ex. 30:6.

69. On June 7, 2013, Nora filed a second motion for reconsideration of the award of attorney fees. Ex. 31; Tr. at 33:7-18.

70. In the second motion for reconsideration, Nora stated:

This Court determined that Ms. Spencer did not have the right to seek reconsideration of the Court’s Order remanding the case to the state foreclosure court entered on March 25, 2013 because the Court remanded the case under 28 USC sec. 1447(c) and is not appealable under 28 USC sec. 1447(d). The Court is wrong. On reconsideration it clearly elucidated that a part of its remand is based on abstention, as it had implied in the remand order.

Ex. 31:1 (emphasis added).

71. The second motion for reconsideration rehashes the same arguments Nora had asserted in her notice of removal. Exs. 23, 31.

72. On July 2, 2013, Judge Crabb issued an Opinion and Order denying the second motion for reconsideration and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 32; Tr. at 33:19-34:5.

73. On July 10, 2013, the United States District Court for the Western District of Wisconsin entered a judgment awarding \$875 to PNC Bank for costs and fees incurred in opposing the first motion for reconsideration. Ex. 33; Tr. at 34:6-20.

74. On July 10, 2013, Nora filed a notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013. Ex. 34; Tr. at 34:21-35:1.

75. In the notice of appeal, Nora identified herself as a defendant-appellant “individually and in her capacity as counsel for Sheila M. Spencer.” Ex. 34.

76. Nora filed nothing with the court seeking to be made a party to the case prior to filing the notice of appeal. Tr. at 35:2-9; Ex. 3.

77. Nora knew that remand orders were not appealable under Title 28 of the United States Code. Tr. at 693:20-25.

78. On July 30, 2013, the United States District Court for the Western District of Wisconsin entered an amended judgment awarding \$4,928.47 to PNC Bank for costs and fees incurred in opposing the removal. Ex. 35; Tr. at 35:12-36:1.

79. On July 31, 2013, Nora filed an amended notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013 and the judgment and the amended judgment entered by the Western District on July 10 and July 30, 2013, respectively. Ex. 36; Tr. at 36:2-13.

80. In the amended notice of appeal, Nora identified herself as a defendant-appellant “individually and in her capacity as counsel for Sheila M. Spencer.” Ex. 36.

81. Nora filed nothing with the court seeking to be made a party to the case prior to filing the amended notice of appeal. Tr. at 36:11-13.

82. On July 31, 2013, the United States Court of Appeals for the Seventh Circuit issued an order directing Nora and Spencer to file a memorandum stating why the appeal should not be dismissed for lack of jurisdiction. Ex. 4:3 (Entry 2).

83. On August 14, 2013, Nora filed a Jurisdictional Memorandum with the Seventh Circuit asserting that she had “the right and indeed the obligation to appear in her individual name and capacity as an aggrieved party.” Ex. 37:2.

84. In her Jurisdictional Memorandum, Nora stated that “Judge Crabb has engaged in a campaign of libel against Attorney Nora which will be addressed to the appropriate fora.” Ex. 37:3.

85. In her Jurisdictional Memorandum, Nora stated she was the real party in interest on the appeal because she was the “target” of the sanctions and she was “ethically required” to indemnify Spencer for the award of attorney fees and costs. Ex. 37:5.

86. On August 23 and September 10, 2013, Carrig filed memoranda for PNC Bank addressing jurisdiction as required by the Seventh Circuit. Ex. 4:3 (Entries 5-8); Tr. at 40:15-41:3.

87. Briefing on the Spencer appeal was delayed from October 23, 2013 to March 10, 2014, by reason of Nora filing a bankruptcy proceeding for Spencer. Ex. 43-4 (Entries 14-23); Tr. at 439:11-16.

88. After briefing and oral argument, on August 13, 2014, the Seventh Circuit issued its decision in the Spencer appeal. Ex. 4:4-5 (Entries 24-55); Ex. 39.

89. The Seventh Circuit dismissed Nora's appeal because she lacked standing to appeal, affirmed the district court's award of costs and attorney fees against Spencer because "there was no objectively reasonable basis for federal jurisdiction or removal," concluded the appeal was "frivolous," and ordered Nora to show cause "why she should not be sanctioned for pursuing this frivolous appeal." Ex. 39:3-4.

90. On August 15, 2014, Nora filed an initial response to the Seventh Circuit's order to show cause and asserted that "there are numerous factual findings which are not supported by any evidence in the record, for which judicial notice was not properly taken and which are offered to be proved to be clearly erroneous." Ex. 40:2; Tr. at 45:1-18.

91. Nora's "Initial Response" rehashes the same arguments she had advanced in the notice of removal, in the briefs she had filed with the district court, and in the jurisdictional memorandum. Exs. 23, 25, 28, 31, 37, 40.

92. In her "Initial Response," Nora asserted that Judge Crabb had removed the seal from her medical records in a matter arising out of her personal bankruptcy case (*In Re Nora*, No. 10-3131) and that "it was nonetheless libelous for Judge Crabb to do so." Ex. 40:6, 11; Tr. at 451:23-452:12.

93. Nora acknowledged that Exhibit 55 was a copy of the decision where Judge Crabb had removed the seal from her medical records. Tr. at 455:3-6.

94. Nora asserted that Judge Crabb was in contempt of an order of the Seventh Circuit when she removed the seal from the medical records. Ex. 54:1; Tr. at 456:7-16.

95. The basis for Judge Crabb removing the seal from Nora's medical records was that Nora did not file the documents under seal under a prior protective order and that Nora did not move to have the documents sealed until she brought a motion for contempt against opposing counsel in her bankruptcy case. Ex. 55:4.

96. On August 20, 2014, the Seventh Circuit issued an order directing that Nora file "one proper response" (Ex. 41:1) to the order to show cause addressing four issues, as follows:

- 1) Whether her removal of this case to federal court, the first motion to reconsider the removal, and the appeal of the order awarding fees and costs were frivolous;
- 2) Whether her appeal of the district court's award on her own behalf was frivolous, where she was not a party and the district court did not order her to pay anything;
- 3) Whether the removal of this case to federal court and this appeal were litigated for improper purposes, in particular, to unnecessarily delay the proceedings and to increase the cost of this litigation to her opponents; and
- 4) Whether the accusations she has leveled against her opponents and the courts during this case, including the comments described in this court's opinion, were appropriate advocacy.

Ex. 41:2 (citations omitted); Tr. at 41:20-42:12.

97. On September 2, 2014, Nora filed a petition for rehearing en banc before the Seventh Circuit rehashing all of the same arguments previously made in her filings in the Spencer case. Exs. 23, 25, 28, 31, 37, 40, 42; Tr. at 46:13-58:18.

98. On September 16, 2014, the Seventh Circuit denied the petition for rehearing en banc. Ex. 43; Tr. at 58:19-59:8.

99. On September 19, 2014, Nora filed a motion to stay proceedings before the Seventh Circuit in order to provide her an opportunity to file a petition for a writ of

certiorari with the United States Supreme Court. Ex. 44; Tr. at 59:9-23.

100. Nora never filed a petition for a writ of certiorari. Tr. at 464:21-466:25.

101. On September 19, 2014, Nora filed what was captioned a “Partial Response to Order to Show Cause” issued by the Seventh Circuit. Ex. 45; Tr. at 475:17-476:7.

102. In her “Partial Response,” Nora denied that she had accused the state court judge and court reporter in the Spencer case of “fraudulently manipulating transcripts.” Ex. 45:7; Tr. at 483:5-17.

103. In her “Partial Response,” Nora stated that “it is the courts themselves which are causing the undersigned’s clients and millions of others to despair and lose faith in the courts.” Ex. 45:11; Tr. at 486:15-21.

104. In her “Partial Response,” Nora stated:

By treating the undersigned as an enemy of the courts ... courts in this circuit are violating the first paragraph of the Preamble of the Standards of Conduct Within the Seventh Circuit by attempting to punish the vigorous defense of homeowners.

Ex. 45:11; Tr. at 486:22-487:8.

105. In her “Partial Response,” Nora refused to withdraw her accusation that opposing counsel had engaged in civil fraud and racketeering. Ex. 45:12; Tr. at 490:3-20.

106. In her “Partial Response,” Nora stated, “The bias of this panel and many of the judges in this circuit against homeowners’ rights to be heard and defend their homes is apparent in every disputed sentence of the ‘findings’ in the panel’s decision.” Ex. 45:13; Tr. at 491:1-8.

107. In her “Partial Response,” Nora characterized a number of statements in the

court's opinion on the Spencer appeal as "false." Ex. 45:13-14; Tr. at 491:9-493:4.

108. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had accused the Judge Potter, PNC's lawyers, and the court clerk of colluding to conceal the contents of a court order and that she had demanded that Judge Potter recuse himself. Ex. 45:15; Tr. at 495:4-24.

109. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had accused the court reporter of intentionally manipulating a hearing transcript at Judge Potter's direction. Ex. 45:15; Tr. at 498:10-499:10.

110. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that she had moved to strike an opposing attorney's appearance because the case caption improperly identified PNC as a party. Ex. 45:16; Tr. at 499:24-501:13.

111. In her "Partial Response," Nora characterized as "false" the statement in the court's opinion that in December 2012 the state court scheduled a summary judgment hearing for next March. Ex. 45:16.

112. In her "Partial Response," Nora repeated her assertion that Judge Crabb was "engaging in a campaign of libel" against her. Ex. 45:7.

113. On October 2, 2014, the Seventh Circuit entered an order awarding PNC Bank \$25,295.00 for attorney fees and \$349.67 for costs. Ex. 46; Tr. at 503:14-504:24.

114. On October 3, 2014, Nora filed a letter of supplementary authority relative to the order to show cause. Ex. 47; Tr. at 504:25-505:8.

115. On October 17, 2014, Nora filed a motion to continue the show cause hearing for medical reasons. Ex. 48; Tr. at 505:9-24.

116. On October 21, 2014, the Seventh Circuit entered an order denying Nora's motion for a continuance but allowing her to appear by speakerphone. Ex. 49; Tr. at 505:25-506:14. On October 28 2014, Nora appeared in person for the hearing. Ex. 50:3.

117. On February 11, 2015, the Seventh Circuit sanctioned Nora the sum of \$2,500 for frivolous and needlessly antagonistic filings. Ex. 50:4; Tr. at 506:15-23.

118. The Seventh Circuit's opinion states that contrary to its direction that Nora limit herself to "one proper response to the show-cause order ... Nora did not limit herself to one proper response." Ex. 50:2.

119. The Seventh Circuit's opinion describes Nora's petition for rehearing en banc as "rehashing her frivolous appellate arguments." *Id.*

120. The Seventh Circuit's opinion states that "[i]n responding to our earlier opinion, Nora has dug in her heels and continues to press the same arguments that were thoroughly rejected in the district court and our earlier opinion." Ex. 50:3.

121. In addressing its concerns about Nora engaging in "conduct unbecoming a member of the court's bar," the Seventh Circuit stated that:

Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions.

Ex. 50:3 (emphasis added).

122. On March 10, 2014, prior to filing her responses to the order to show cause, Nora had filed an amended second motion to disqualify Judge Potter and argued the motion on March 19, 2014. Ex. 1:16-17 (Items 163-72); Tr. at 123:25-125:25.

123. At the March 19, 2014 hearing, Judge Potter denied the second motion to disqualify and granted PNC's motion for summary judgment. Ex. 1 (Item 172); Ex. 51; Tr. at 64:13-65:5.

124. On August 20, 2014, the Wood County Circuit Court entered a written order granting judgment of foreclosure and sale to PNC Bank in the Spencer matter, denying the second motion to disqualify Judge Potter, and dismissing Spencer's counterclaim. Ex. 1 (Item 186); Ex. 51; Tr. at 64:13-65:5.

125. A sheriff's sale was conducted in the Spencer matter and the sale was confirmed by the Wood County Circuit Court. Tr. at 65:17-21.

126. Nora filed appeals for Spencer from the judgment of foreclosure and sale and from the confirmation of sale. Tr. at 65:14-24.

127. By opinions issued May 16, 2016, the Wisconsin Court of Appeals affirmed the judgment of foreclosure and sale and the confirmation of sale entered by the Wood County Circuit Court. Exs. 52, 53; Tr. at 65:25-66:17.

128. None of the attorney fees and costs awarded by the Seventh Circuit and by Judge Crabb in the Spencer matter have been paid. Tr. at 60:17-81:2.

■ [REDACTED]
[REDACTED]
[REDACTED]
■ [REDACTED]

QUESTION 1. The following table shows the number of people who attended the 2008 Summer Olympic Games in Beijing, China, and the 2008 Winter Olympic Games in Vancouver, Canada. <table border="1"> <thead> <tr> <th>Country</th> <th>2008 Summer Olympic Games (Beijing, China)</th> <th>2008 Winter Olympic Games (Vancouver, Canada)</th> </tr> </thead> <tbody> <tr> <td>United States</td> <td>10,500</td> <td>10,000</td> </tr> <tr> <td>China</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>Canada</td> <td>10,000</td> <td>10,000</td> </tr> <tr> <td>Other countries</td> <td>10,000</td> <td>10,000</td> </tr> </tbody> </table> a. Write the number of people who attended the 2008 Summer Olympic Games in Beijing, China, in standard form. b. Write the number of people who attended the 2008 Winter Olympic Games in Vancouver, Canada, in standard form. c. Write the number of people who attended the 2008 Summer Olympic Games in Beijing, China, in expanded form. d. Write the number of people who attended the 2008 Winter Olympic Games in Vancouver, Canada, in expanded form.	Country	2008 Summer Olympic Games (Beijing, China)	2008 Winter Olympic Games (Vancouver, Canada)	United States	10,500	10,000	China	10,000	10,000	Canada	10,000	10,000	Other countries	10,000	10,000	ANSWER 1. a. 10,500 b. 10,000 c. 10,000 d. 10,000
Country	2008 Summer Olympic Games (Beijing, China)	2008 Winter Olympic Games (Vancouver, Canada)														
United States	10,500	10,000														
China	10,000	10,000														
Canada	10,000	10,000														
Other countries	10,000	10,000														

A. Facts Regarding Rinaldi Matter (“Rinaldi Facts”).

2. In Case No. 2009CV353, the court granted judgment of foreclosure and in favor of HSBC and dismissed the Rinaldis' counterclaims. Ex. 57:7-8 (Items 65,

73, 43); Tr. at 183:21-186:5.

3. After the Rinaldis' motion for reconsideration was denied, the judgment was vacated and case dismissed based on a loan modification agreement with the Rinaldis. Ex. 57:11 (Items 95-98); Tr. at 186:7-188:15.

4. On June 10, 2011, the Rinaldis commenced a lawsuit in the Circuit Court for Kenosha County, Case No. 2011CV1477 against, among others, Wells Fargo Bank, N.A. ("Wells Fargo") and the Gray Firm. Ex. 58:1; Tr. at 188:16-190:9.

5. Nora first appeared for the Rinaldis in Case No. 2011CV1477 by filing a notice of appearance on August 30, 2011. Ex. 58:3 (Item 29); Tr. at 190:14-22.

6. Motions to dismiss filed by certain defendants were pending when Nora first appeared in the case. Ex. 58:2 (Item 16); Tr. at 191:23-192:4.

7. On September 7, 2011, Nora filed a motion to dismiss without prejudice on behalf of the Rinaldis. Ex. 58:4 (Item 30); Tr. at 192:6-193:6.

8. The motions to dismiss were not heard by the court due to a bankruptcy filing made by the Rinaldis on October 14, 2011. Ex. 58:2 (Item 41); Tr. at 193:8-21.

9. Nora appeared for the Rinaldis in their bankruptcy case. On June 14, 2012, Nora filed an objection to the proof of claim filed by HSBC relative to the Rinaldi note and mortgage. Ex. 59:16-17 (Entry 77); Ex. 65:3.

10. On June 17, 2012, Nora filed an adversary proceeding on behalf of the Rinaldis asserting fraud and racketeering claims against, among others, HSBC, Wells Fargo, the Gary Firm and certain of its lawyers, and the law firm of Litchfield Cavo and Attorney Markvart, a Litchfield attorney who had appeared for Wells Fargo in Case No.

2011CV1477. Ex. 60:1; Tr. at 193:16-197:1, 197:22-198:9.

11. In challenging a proof of claim filed by HSBC, Nora asserted:

... objections to the claim includ[ing] that the Note lacks consideration; two mortgage assignments are null and void; another mortgage assignment is a forgery or unenforceable because it was not recorded or perfected prior to bankruptcy; HSBC is not the owner or holder of the Note; and the Note image attached to the claim was fabricated to deceive the Court. Along with disallowance of the claim and the security represented by the Mortgage, the Debtors seek a determination that the proof of claim is false, fraudulent and unlawful.

Ex. 65:5.

12. In the adversary proceeding, Nora asserted claims against the defendant banks and their counsel, including common law fraud, abuse of legal process and violations of the Fair Debt Collections Practices Act (“FDCPA”), violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), breach of contract and tortious interference with prospective economic opportunity. Ex. 65:5.

13. On February 22, 2013, Bankruptcy Judge Susan Kelley issued a decision relative to the Rinaldis’ objection to the proof of claim and defendants’ motions to dismiss the adversary proceeding. Ex. 65:3-4; Tr. at 198:10-17, 203:3-21.

14. Judge Kelley rejected the Rinaldis’ objections to HSBC’s proof of claim, including objections predicated on an allegation that defendants produced a “forged endorsement to the mortgage note robo-stamped bearing the signature of Joan M. Mills to mislead this court into believing that the note had been timely, properly and authentically endorsed in blank after the commencement of [the foreclosure action].” Ex. 65:13-18.

15. Judge Kelley rejected Rinaldis’ claims asserted in the adversary proceeding

and recommended that the district court dismiss the claims. Ex. 65:18-33.

16. In rejecting the objections and claims asserted by Nora in the bankruptcy case and in the adversary proceeding, Judge Kelley characterized some of the arguments as frivolous (Ex. 65:13, 21) and preposterous (Ex. 65:29).

17. Nora filed an appeal from Judge Kelly's decision as to the objection to the proof of claim and an objection to Judge Kelley's recommendation in the adversary proceeding. The appeal and objection were consolidated and the matter was assigned to District Court Judge J. P. Stadtmueller. Ex. 61:4-5 (Entries 2, 5); Tr. at 196:16-197:8.

18. By order dated October 31, 2013, Judge Stadtmueller affirmed Judge Kelley's decision with respect to the proof of claim and adopted Judge Kelley's proposed findings of fact and conclusions of law regarding the adversary proceeding. Ex. 61:7 (Item 32); Ex. 66:20-21; Tr. at 203:22-204:12.

19. Judge Stadtmueller held that Nora failed to comply with the Federal Rules of Bankruptcy Procedure governing appeals. Ex. 66:8-10.

20. Judge Stadtmueller's opinion states that "debtors failed to provide a cogent statement of the issues on appeal and also provided briefs that are largely unintelligible" (Ex. 66:11) and describes the debtors' submissions as "an unfocused, stream-of-consciousness-style recitation of general grievances the debtors have asserted in various forms since the origination of this litigation in state court" (Ex. 66:14).

21. Judge Stadtmueller held that any issues as to the assignment of mortgages did not affect HSBC's rights as to the holder of the note. Ex. 66:12-13.

22. Regarding the Rinaldis' racketeering claim, Judge Stadtmueller held that

Rinaldis had no injury in fact since they were still living in the residence and did not owe any money beyond that set forth in the mortgage which they agreed to pay. Ex. 66:15.

23. Judge Stadtmueller stated that debtors' activity "has quite obviously been vexatious and time-and resource-consuming; but, more concerning is the fact that their submissions to the Court are nigh-unintelligible." Ex. 66:19.

24. Judge Stadtmueller also stated that:

Seeing as the debtors' claims are generally meritless, the Court is concerned that the debtors are simply attempting to further stay the defendants' foreclosure of their home. In that case, the abuse of process charges alleged by the debtors against the defendants would actually lie much more appropriately against the plaintiffs.

Ex. 66:19-20.

25. Judge Stadtmueller also stated that:

The debtors are hereby warned, however, that they will find themselves in very deep trouble if additional meritless filings find their way to this Court (seeing as this Court has already had the responsibility of dealing with their all-but-frivolous filings in Case No. 12-CV-1065) and may very well result in significant sanctions.

Ex. 66:20.

26. On November 11, 2013, Nora filed a motion to amend or alter the findings of fact, conclusions of law and judgment entered by Judge Stadtmueller. Ex. 61:7 (Item 34); Ex. 67; Tr. at 204:13-25.

27. Nora's motion to alter or amend asserted the same kind of arguments that they had previously presented to Judge Kelley and Judge Stadtmueller addressing alleged fraud or forgeries in assignments of the Rinaldi mortgage, including the mortgage "purportedly endorsed by Joan M. Mills as Vice President of Wells Fargo." Ex. 67:2-4.

28. The banks and defendants in the adversary proceeding filed a response to the motion to amend or alter. Ex. 61:7 (Items 35, 36); Tr. at 205:1-12.

29. On December 13, 2013, Judge Stadtmueller entered an order denying the motion to amend or alter. Ex. 61:7 (Item 37); Ex. 68; Tr. at 205:13-23.

30. In the order denying the motion to amend or alter, Judge Stadtmueller stated that:

... the Rinaldis fail to identify any manifest error of law or fact, intervening change in law, or newly-discovered evidence that would entitle them to relief under Rule 59(e). ... Their arguments at this stage largely derive from perceived factual errors, which were not relevant to the Court's analysis and were not in error, and alleged legal errors, which are simply rehashings of the same meritless arguments raised before. The Court is, therefore, obliged to dismiss the Rinaldis' motion to amend.

With this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney.

Ex. 68:3 (citations omitted).

31. On December 23, 2013, Nora filed a notice of appeal of the orders entered by Judge Stadtmueller on October 31, 2013 and December 13, 2013. Ex. 61:7 (Entry 38); Ex. 69; Tr. at 205:24-206:7.

32. On February 11, 2014, Nora filed a motion to withdraw as Rinaldis' counsel in the Bankruptcy Court, the District Court and the Seventh Circuit. Ex. 59:30 (Entry 148); Ex. 61:8 (Entry 44); Ex. 62:4 (Entry 8); Ex. 72; Tr. at 206:8-207:10.

33. On March 4, 2014, Judge Kelley heard Nora's motion to withdraw in the bankruptcy case in conjunction with hearing a motion by the United States Trustee to dismiss the Rinaldis' bankruptcy case for failure to make payments. Ex. 59:30-31

(Entries 146, 153); Ex. 71; Tr. at 207:11-208:18.

34. In an oral ruling on March 4, 2014, Judge Kelley dismissed the bankruptcy case but retained jurisdiction over motions for sanctions filed by defendants in the Adversary Proceeding. Ex. 59:30-31 (Entries 153, 155); Ex. 71.

35. In an order entered March 5, 2014, Judge Kelley confirmed her oral ruling of March 4, 2014, and denied a motion for reconsideration Nora had filed with respect to Judge Kelley's opinion that dismissal of the case would moot the appeal Nora had filed for the Rinaldis. Ex. 59:30-31 (Entries 146, 154, 155); Exs. 70, 71.

36. Nora's motion for reconsideration in the bankruptcy case repeated the same arguments previously made based on an alleged "forged endorsement" and stated that "the Rinaldis have decided not to engage in litigation of their new issues in this Court and wish to be set free from the underlying bankruptcy" Ex. 70:2-3.

37. On April 2, 2014, Nora filed a motion to intervene personally in the Rinaldi case before Judge Stadtmueller. Ex. 61:9 (Entry 46); Ex. 73; Tr. at 209:9-210:3.

38. On April 2, 2014, Nora filed a joint motion for the Rinaldis and herself as the proposed intervenor in the case before Judge Stadtmueller seeking relief under Federal Rule of Civil Procedure 60 from the orders from the October 31 and December 13, 2013. Ex. 61:9 (Entry 47); Ex. 74; Tr. at 212:12-23.

39. In the motion to intervene, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 73.

40. In the motion to intervene, Nora asserted a right to intervene in order to

defend the motions for sanctions filed by the banks and defendants in the adversary proceeding. Ex. 73:2, 15.

41. In the motion for relief under Rule 60, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 74.

42. By order dated April 9, 2014, Judge Stadtmueller granted Nora's motion to withdraw as counsel for the Rinaldis, but denied the motions to intervene and for relief under Rule 60. Ex. 75; Tr. at 213:13-17.

43. In the April 9, 2014 order, Judge Stadtmueller also stated that:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that "[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney." (Docket #37 at 3 (emphasis in original)). Despite that extremely clear warning, Ms. Nora filed the frivolous motions in question. Therefore, the Court will enter a sanctions award against her, using its inherent authority to do so under *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991). The Court will direct that Ms. Nora pay to the Clerk of the Court \$1,000.00 for deposit into the Eastern District of Wisconsin Pro Bono fund. And let the Court be clear: any further frivolous filings will result in even higher sanctions against Ms. Nora.

Ex. 75:2-3.

44. On appeal, the Seventh Circuit stated that "to the extent the adversary claims are not moot, we affirm the dismissal of those claims for substantially the reasons discussed by the district court." Ex. 76:3.

45. The Seventh Circuit also applied an exception to the general rule that mootness would of the appeal would deprive the lower court's rulings of preclusive effect

where “losing party causes an appeal to become moot in order to avoid the preclusive effect of an unfavorable ruling.” *Id.* The court added, “We refuse to indulge this type of gamesmanship by depriving the sound decisions of the bankruptcy court and district court of preclusive effect.” Ex. 76:4.

46. The Seventh Circuit also affirmed the sanction awarded against Nora, stating that Nora’s obligations to her clients did not excuse her disregard of the district court’s clear and repeated warnings against continued submission of confusing, frivolous, and needlessly argumentative filings. *Id.*

B. Nora Violated SCR 20:3.1(a) By Filing the Motion To Intervene And The Rule 60 Motions In The Rinaldi Matter.

1. Count Four Allegations.

Paragraph 90 of the Complaint alleges that:

In *Desa L. Rinaldi and Roger P. Rinaldi vs. HSBC Bank USA, N.A., et al.*, U.S. Dist. Court for the Eastern District of Wisconsin Case Nos. 13-CV-336-JPS and 13-CV-643-JPS, which led to 7th Cir. U.S. Court of Appeals Case Nos. 13-3865 and 14-1887, by filing a motion to intervene and a motion for relief from the Court’s prior orders pursuant to F.R.C.P. 60(b)(2), which motions were found to be frivolous, after the U.S. District Court had warned Nora that any further frivolous submissions would result in an award of sanctions, Nora violated SCR 20:3.1(a).

APPENDIX B

APPENDIX B
Nora's Proposed Answer to OLR's New Allegations of Fact
preserving all of her constitutional and jurisdictional objections

THE SPENCER MATTER

Facts Regarding Spencer Matter ("Spencer Facts")

The record in relation to the Spencer Matter shows the following:

1. The Spencer Matter was a mortgage foreclosure action commenced in the Circuit Court for Wood County in April 2009. Exhibit ("Ex.") 1:1; Ex. 2:1; Ex. 53:2.

1. Nora admits this new allegation, which corrects one of OLR's earlier pervasive mistaken allegations, sought to be corrected by amended ¶6 and allowed, over Nora's objection, by the filing of the Second Amended Complaint on August 18, 2016.

2. Nora's involvement commenced in early May 2012 when she filed a notice of appearance for defendant Sheila Spencer and a motion to postpone a hearing on a summary judgment motion scheduled for May 23, 2012. Transcript ("Tr.") at 316:3-319:19; Ex. 1:3-4 (CCAP Items 32, 36-38).

2. Nora admits that she appeared in the Spencer case and affirmatively alleges that she appeared as new counsel for Ms. Spencer on May 8, 2012. Nora further affirmatively alleges that she did not specifically move for a postponement of the summary judgment motion. She sought the entry of a scheduling order. No comprehensive scheduling order had yet been entered in the case and no comprehensive scheduling order was ever entered. Judge Potter converted the hearing to a schedule conference and ordered Nora to submit a list of the issues she observed regarding the constitutional and statutory defects in the proceedings. Judge Potter did not refer to the list of issues being limited to summary

judgment issues did not mention the scheduling of the second summary judgment motion at all in his oral ruling on May 23, 2012.

3. Nora appeared in person at the May 23, 2012 hearing. Tim Brovold, an attorney from Gray & Associates, S.C. (“Gray Firm”), counsel for the plaintiff, appeared by telephone. Judge Gregory Potter, the presiding judge, granted Nora the postponement she sought and directed Nora to file and serve a list of issues on or before June 29, 2012. Ex. 8; Ex. 9:1, 15-16; Tr. at 319:21-325:12.

3. Nora admits that on May 15, 2012, she moved for the entry of a scheduling order to allow her to defend Ms. Spencer’s Homestead, based on her May 8, 2012 appearance as counsel. The issuance of a scheduling order when no scheduling order had previously been entered is a routine request and the modification of existing scheduling orders is frequently allowed when new counsel appears.

4. Nora did not file the list of issues by June 29, 2012 as directed by the court. Instead, on June 27, 2012, she filed an “Affidavit of Nonreceipt of Motion for Proposed Order and Final Order.” Ex. 1:4 (CCAP Item 43); Ex. 13; Tr. at 325:13-326:6.

4. Nora admits that she did not receive the proposed order submitted by Gray & Associates, LLP under cover letter dated May 25, 2012 or a copy of the order entered by the Court on June 12, 2012. Her Affidavit of Non-Receipt was true.

5. Nora testified she filed the June 27, 2012 affidavit with a motion dated June 28, 2012, for an extension of time to file the list of issues (Tr. at 348:4-20), but the CCAP record and court record index show these as separate filings. Ex. 1 :4-5; Ex. 2:3.

5. A new allegation cannot be set forth *after* the hearing commences and if the new

allegation were material, it would be contrary to the principles of due process set forth by the United States Supreme Court in *In the Matter of John Ruffalo, Jr., Petitioner* 390 U.S. 544, 551, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968) and by the Wisconsin Supreme Court in *This Court* recognized the following due process rights of lawyers in disciplinary cases in *State v. Hersh*, 73 Wis.2d 390, 398, 243 N.W.2d 178, 182 (1976). This new allegation is, however, alleges a wholly immaterial “inconsistency.” Nora was testifying from her memory of a filing made almost 4 years before the hearing. The record shows that the affidavit was dated June 27, 2012 and the motion was dated June 28, 2012. ¶3 of the June 27, 2012 Motion reads:

3. The Affidavit of Defendant’s counsel dated and filed on June 27, 2012 is incorporated by reference as if fully set forth herein.

Nora allows that evidence affecting her credibility can be argued based upon the record made at the hearing, but OLR is not arguing credibility in this new allegation, but is apparently alleging a new fact in support of Counts One, Two or Three. Had Nora been charged with misconduct by a preliminary review panel of the Preliminary Review Committee (hereinafter the PRC) under SCR 22.11(2) insofar as she filed the June 27, 2012 Affidavit and the June 28, 2012 Motion as separate documents, she would have been prepared to explain that she filed the Affidavit of Non-Receipt immediately upon learning that an Order had been entered which had not been served upon her and that she followed up with the Motion the following day after she considered the implications of the entry of the Order in light of her knowledge of other events in the court record with which she had familiarized herself in order to prepare the list of issues which she was preparing to file.

Those other events are set forth in the list of issues filed on August 13, 2012.

6. In her June 27, 2012 affidavit, Nora stated that she had reviewed the CCAP record, that she was “shocked to find that an Order was entered in these proceedings on June 12, 2012,” and that she had not been served with a motion seeking entry of an order after the May 23, 2009 hearing. Ex. 13:2, ¶¶ 3, 4.

6. Nora admits this new allegation, in part, and denies it, in part. Nora affirmatively alleges that Nora’s June 27, 2012 Affidavit of Non-Receipt was true, but this new allegation compound allegation is not true in both parts. Nora did not state that she had not been served with “a *motion* seeking entry of an order after the May 23, 2009 hearing.” The hearing to which the order relates had already taken place. The contested order was never enforced. The order drafted by Nora, who transmitted it to the Gray Law Firm for approval before sending it to the court for the court’s review was entered

7. In her June 27 affidavit, Nora stated that she “needed the order for the deadline of June 28, 2012” (Ex. 13:2, ¶¶ 9), referring to her obligation to file and serve the list of issues by the June 29, 2012 deadline. Tr. at 337:4-17.

7. Nora admits this new allegation and affirmatively alleges that Nora needed to review the contents of the June 12, 2012 Order which she had not received so that she could comply with the order. It cannot reasonably be disputed that parties or their attorneys are entitled to receive copies of orders entered in their cases.

8. Nora’s June 27 affidavit contains no satisfactory explanation how entry of an order she said she had not seen affected her obligation to file the list of issues. Ex. 13.

8. Nora denies this new allegation and affirmatively alleges that Nora was not

charged with not making a satisfactory explanation of how the order she had not seen affected her obligation to file the list of issues, but her June 27, 2017 Affidavit of Non-Receipt indeed contains the explanation of why she needed to have a copy of the Court Order. It cannot reasonably be disputed that parties are not entitled to receive copies of orders entered in their cases. In ¶26 of the Complaint, the Amended Complaint and the Second Amended to Complaint (as to the latter, Nora preserves her argument regarding OLR's lack of authority to file the Second Amended Complaint), OLR alleged that the missing page of the May 23, 2016 Transcript contained "no orders, no dates, and no findings that would prejudice Nora or her client". Nora's defense to that allegation was that parties and their attorneys are entitled to correct copies of the transcripts.

9. In her June 27 affidavit, Nora stated that the court's clerk told her that the Gray Firm had sent the order and a letter to Judge Potter. Ex. 13:2, ¶¶10-12.

9. Nora admits this new allegation and affirmatively alleges that the June 27, 2012 Affidavit of Non-Receipt was true.

10. Nora made no effort to contact the Gray Firm to obtain a copy of what had been sent to the court. Tr. at 338:17-340:2.

10. Nora admits this new allegation and affirmatively alleges that Nora is not required to contact the party responsible for serving a copy of the court order it obtained. She is entitled to obtain a copy of the order directly from the court record. The civil filings clerk refused to FAX a copy of the order to Ms. Nora, who was prepared to pay the statutory fee of \$1.25 per page and offered to do so (and would have paid any surcharge for the FAX). Nora then asked Ms. Spencer to obtain a copy of the court order and Ms.

Spencer did so. Nora received the copy of the court order from Ms. Spencer on June 28, 2012.

11. In her June 27 affidavit, Nora described the Gray Firm's conduct regarding the order as an "ex parte communication with the Court." Ex. 13:3, ¶¶13-16.

11. Nora admits this new allegation and affirmatively alleges that when a party does not provide a copy of a proposed order to the opposing party, that is an ex parte communication. When a party obtaining a court order fails to serve a copy of a court order on the opposing party, the opposing party cannot comply with the court order until the opposing party obtains a copy of the order. Nora was entitled to receive a copy of the order entered by the court from the Gray Law Firm, who procured it.

12. In her June 27 affidavit, Nora stated that she was considering the possibility of "moving to disqualify Judge Potter for ex parte communications with GRAY & ASSOCIATES, L.L.P." Ex. 13:4, ¶17.e.

12. Nora admits this new allegation and affirmatively alleges that it is not violation of the Code of Professional Conduct for a party to move to disqualify a judge for ex parte communications with opposing counsel. Rather, it is obligation of the party's attorney to seek disqualification of a judge if the judge is engaging in ex parte communications with opposing counsel if there is evidence which supports the challenge. In Ms. Spencer's case, there was sufficient evidence in the record to support the challenge. See ¶¶4, 6, 7, 8, 9, 10, 11, and 12, above, incorporated by reference as if fully set forth herein.

13. The June 28, 2012 motion filed by Nora states that Spencer seeks "the Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte

Communications and Entering Ex Parte Orders in These Proceedings.” Ex. 14:1.

13. Nora admits this new allegation and affirmatively alleges that it is obligation of the party’s attorney to seek disqualification of a judge if the judge is engaging in ex parte communications with opposing counsel or otherwise take action to assure that the ex parte communications will not be repeated, which is what Nora did in the Spencer case.

14. In her June 28 motion, Nora refers to the Spencer proceeding as a “mockery of justice” (Id., 14:2, ¶1) and as “these misbegotten proceedings” (Id., 14:2, ¶3).

14. Nora admits this new allegation and affirmatively alleges that ex parte communications are forbidden except under specified circumstances and ex parte communications render proceedings unjust, or as Nora stated, a “mockery of justice.” Fundamental due process is required for just proceedings. There was substantial evidence that the proceedings were “misbegotten”: the Complaint was filed in the trade name of an entity which was no longer in nonexistence and an UNENDORSED copy of Ms. Spencer’s Note was attached and represented to be a “true” copy, when it was not. Ex. 5.

15. In her June 28 motion, Nora stated that on June 27, 2012, she received from her client copies of a letter to the court dated May 25, 2012 and a signed order filed June 12, 2012 (Id., 14:3, ¶8). Nora acknowledged that Exhibit 10 was a copy of the letter and Exhibit 12 was a copy of the order referred to in her June 28 motion and in her June 27 affidavit. Tr. at 360:3-363:1.

15. Nora admits this new allegation and affirmatively alleges Nora’s testimony with respect to the identification of the subject documents at the evidentiary hearing is true.

16. The letter of transmittal dated May 25, 2012 and proposed order shows a

carbon copy to Nora. Ex. 10:1. Nora could not explain how Judge Potter would have known that the Gray Firm had not sent her a copy of the letter and proposed order or that she had not received a copy of the letter and proposed order. Tr. at 364:11-25.

16. Nora admits this new allegation and affirmatively alleges that Nora was not required to explain how Judge Potter would have known that the Gray Firm had not sent her a copy of the letter and proposed order or that she had not received a copy of the letter and proposed order because she was not charged with failing to explain those factors. As Nora’s June 28, 2012 Motion (Ex. 14) clearly states, the Wood County Circuit Court does not have a “Five-Day Rule” and the entry of an order without approval as to form indicates that the order was not approved by counsel for the party who did not draft or submit the order.

17. In her June 28 motion, Nora stated that “(t]his is not the first instance of ex parte communications leading to orders being entered by Judge Gregory J. Potter. Ex. 14:4, ¶22. Nora referred to three purported prior instances: a filing on March 31, 2010 (Ex. 14:4-5, ¶ 23.a.); (2) a pair of letters dated February 17, 2011 (Id., ¶¶ 23.c. and 23.d.); and a motion to vacate a summary judgment dated June 17, 2011 (Id. ¶ 23.e.).

17. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the June 28, 2012 Motion (Ex. 14) are true.

18. In her June 28 motion, Nora referred to the “recent ex parte order” as “another example of the improper practices in these proceedings.” Id., ¶24.

18. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the June 28, 2012 Motion (Ex. 14) are true.

19. In her June 28 motion, Nora stated that “the secret proceedings held in this matter constitute a miscarriage of justice and that those practices continued in the ex parte order changing the substance of the Court’s order entered on the record of the proceedings on May 23, 2012.” Ex. 14:6, ¶26.

19. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the June 28, 2012 Motion (Ex. 14) are true.

20. In her June 28 motion, Nora stated that “[a] reasonable inference arises from these facts that Judge Gregory J. Potter has colluded with GRAY & ASSOCIATES, LLP to circumvent proper practice and procedure by engaging in and facilitating ex parte communications by which orders have been entered by the court.” Id., ¶31.

20. Nora admits this new allegation and affirmatively alleges that the inference Nora drew from the record events is not per se unreasonable. Ex parte communications had taken place as set forth in the list of issues filed on August 13, 2012. OLR bears the burden of proof by clear and convincing evidence that the inference Nora drew from the record in the proceedings was unreasonable. No evidence that the inference Nora drew from the events in the court record was adduced by OLR at the hearing.

21. Nora demanded that Judge Potter recuse himself based on SCR 60.04(4)(g), which generally proscribes ex parte communications, and SCR 60.04(e), which states that “[a] judge shall perform judicial duties without bias or prejudice.” Ex. 14:7-8, ¶37.

21. Nora admits this new allegation and affirmatively alleges that OLR does not cite the applicable provisions of SCR 60.04(4) and Nora denies that SCR 60.04(4)(g) “generally proscribes ex parte communications. SCR 60.04(4)(g) allows ex parte communications only

under specific circumstances. Applicable to the events in the Spencer case SCR 60.04(g) provides:

1. A judge may initiate, permit, engage in or consider ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits if all of the following conditions are met:
 - a. The judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication.
 - b. When the ex parte communication may affect the substance of the action or proceeding, the judge promptly notifies all of the other parties of the substance of the ex parte communication and allows each party an opportunity to respond.

Under the definition set forth, above, the communications at issue in ¶19 of the Second Amended Complaint were ex parte.

Nora further affirmatively alleges that her statements in the June 28, 2012 Motion (Ex. 14) are true and it is obligation of the party's attorney to seek disqualification of a judge if the judge is engaging in ex parte communications with opposing counsel or otherwise take action to assure that the ex parte communications will not be repeated, which is what Nora did in the Spencer case.

22. Nora had no personal knowledge as to the alleged ex parte communications prior to her appearance in the case. Her knowledge was limited to what was shown in the court record and what others told her. Tr. at 31:11-17.

22. Nora admits this new allegation and affirmatively alleges that Nora was not charged with not having personal knowledge of the evidence upon which she relied to conclude that ex parte communications had occurred. It is obligation of the party's attorney to review the court record events and the client's documents. The court record events supports Nora's contention that the March 31, 2010 Motion for Summary

Judgment, which set the summary judgment hearing for March 31, 2010, did not provide Ms. Spencer with the statutory notice required by Wis. Stat. sec. 802.08(1)—twenty (20) days—and that the hearing was reset on April 6, 2010 to April 19, 2010 without the statutory twenty (20) days’ notice. The record also supports Nora’s contention that the second letter sent only to Ms. Spencer dated February 17, 2011 was not provided to the court and the reasonable inference arises from the existence of two (2) versions of the February 17, 2011 letter, of which only one is in the court record, that Ms. Spencer did not receive notice of the “affidavit issue,” to wit, the falsely sworn Affidavit of Mendy Munday, claiming to be an employee of PNC Bank, N.A., a non-party to the action, that PNC Bank, N.A. and not FNMC, a division of National City Bank of Indiana n/k/a National City Bank—the named plaintiff—was the “owner and holder” of Ms. Spencer’s Note, made payable to FNMC, a division of National City Bank of Indiana, a copy of which was attached to the Complaint and was unendorsed. Finally, the evidence in the record shows that the June 20, 2011 Order Re-Opening the April 19, 2010 Summary Judgment was entered without notice to Ms. Spencer or the opportunity to be heard thereon.

23. As to the alleged March 31, 2010 ex parte communication, an affidavit of a Gray Firm employee shows that on that date Spencer was served a copy of a Notice of Motion and Motion filed with the court on April 5, 2010. Ex. 15; Tr. at 418:17-419:9.

23. Nora admits this new allegation and affirmatively alleges that the March 31, 2010 Motion for Summary Judgment, which set the summary judgment hearing for March 31, 2010, did not provide Ms. Spencer with the statutory notice required by Wis. Stat. sec. 802.08(1)—twenty (20) days—and that the hearing was reset on April 6, 2010 to April 19,

2010 without the statutory twenty (20) days' notice and was brought in the name of a party which had not formally appeared in the action and never appeared in the capacity claimed in the unilaterally altered case caption. Neither Ms. Spencer, pro se, nor Judge Potter, noticed the unilateral alteration to the case caption in the action, which was not amended until December 21, 2012.

24. As to the alleged February 17, 2011 ex parte communication, the court record shows that the letter to the court cancelling a hearing was copied to Sheila Spencer. Ex. 16; Tr. at 368:16-369:6.

24. Nora admits this new allegation and affirmatively alleges that Nora was entitled to rely on her client's statement that she did not receive the February 17, 2011 which referred to the "affidavit issue" and only received the letter cancelling the hearing.

25. As to the alleged June 20, 2011 ex parte communication, the court record shows that the letter to the court filing a petition and order to vacate the judgment was copied to Sheila Spencer. Ex. 18; Tr. at 370:3-371:1.

25. Nora admits this new allegation and affirmatively alleges that the record shows that the June 20, 2011 Order Re-Opening the April 19, 2010 Summary Judgment was entered without notice to Ms. Spencer or the opportunity to be heard thereon.

26. On June 23, 2012, Nora filed a "Notice of Continuing Objection to Further Proceedings." The Notice seeks "Disqualification of Judge Gregory J. Potter for Repeatedly Engaging in or Facilitating Ex Parte Communications and Entering Ex Parte Order [sic] in these Proceedings . . ." Ex. 19:1; Tr. at 379:19-381:7.

26. Nora admits this new allegation and affirmatively alleges that it is obligation of

the party's attorney to seek disqualification of a judge if the judge is engaging in ex parte communications with opposing counsel or otherwise take action to assure that the ex parte communications will not be repeated, which is what Nora did in the Spencer case. Because Nora was assured that no further ex parte communications would take place, Nora drafted the order from the August 8, 2012 hearing for Judge Potter's signature. (OLR Ex. 21)

27. On June 25, 2012, Nora filed an "Amended Notice of Continuing Objection to Further Proceedings." Ex. 20; Tr. at 404:6-16. The only difference between the Notice and the Amended Notice is that the name of Attorney Timothy Mark Brovold of the Gray Firm appears in paragraph 4 of the Amended Notice. Tr. at 407:19-414:3.

27. Nora admits this new allegation and affirmatively alleges it is not a violation of the Code of Professional Conduct to amend a document filed with the Court.

28. In her "Continuing Objection," Nora alleged that the Gray Firm had made "multiple fraudulent filings" in the case. Ex. 20:3, ¶7; Tr. at 389:2-5.

28. Nora admits this new allegation and affirmatively alleges that Nora's statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) are true.

29. In her "Continuing Objection," Nora stated that the alleged non-service of the proposed order entered on June 12, 2012 was part of "an actual pattern and practice by Judge Potter and [the Gray Firm], acting in concert, to effectuate a fraudulent foreclosure against Sheila M. Spencer and her home." Ex. 20:4, ¶¶ 8; Tr. at 389:6-16.

29. Nora admits this new allegation and affirmatively alleges that OLR has taken Nora's statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) out of context. Nora further affirmatively alleges that her were believed in good faith to be

true. As Nora explained to Judge Potter, that because homeowners rarely contest foreclosures, there is a tendency to consider the foreclosure proceedings to be pro forma, rather than truly adversarial.

30. In her “Continuing Objection,” Nora stated that the “ex parte order should never have been considered for signing by Judge Potter and now the entire record of the proceedings must be reviewed in the light of apparent collaboration between Judge Potter and [the Gray Firm].” Ex. 20:6, ¶11; Tr. at 390:3-14.

30. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Nora further affirmatively alleges that she used the word “apparent” to modify “collaboration” because she was drawing a reasonable inference in good faith from the facts available to her.

31. In her “Continuing Objection,” Nora stated the Gray Firm had engaged in “conniving to procure the June 12, 2012 ex parte order of Judge Potter to reverse what it perceived as a loss on the record of the May 23, 2012 proceedings.” Ex. 20:6, .. 12; Tr. at 390:20-391:1.

31. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) are true. This new allegation is substantially different than the factual allegations set forth in the Complaint and Amended Complaint (presumably approved by the PRC) and continuing in the Second Amended Complaint (not approved by the PRC) in that it is more accurate. Nora did not state, as previously alleged by OLR that Judge Potter, that the court clerk and the Gray

Law Firm were conniving with each other to reverse what the Gray Law Firm perceived as a loss on the record of the May 23, 2012 proceedings. Nora did state, in good faith based on evidence that she had not received either the proposed order enclosed in a letter dated May 25, 2012 or a copy of the order when it was entered, that the Gray Law Firm connived to obtain reversal of a perceived loss on May 23, 2012, to wit: that the court had ordered the preparation of a list of issues by the opposing parties which was not limited to the motion to summary judgment.

32. In her “Continuing Objection,” Nora stated that a complete review of the record was required “in light of apparent collaboration between Judge Potter and the lawyers from [the Gray Firm].” Ex. 20:6, .. 13; Tr. at 391:2-7.

32. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. The use of the adjective “apparent” to modify the noun “collaboration” demonstrates that Nora was making an inference based on the events in the record. The facts in support of the apparent collaboration include, but are not limited to, allowing the Gray Law Firm to reschedule the hearing on the first motion for summary judgment filed on March 31, 2010 and set for hearing on the very same day, without informing Ms. Spencer that the case had been rescheduled; allowing the first summary judgment hearing to be scheduled on less than 20 days notice, contrary to Wis. Stat. sec. 802.08(1); signing the order of June 10, 2011 re-opening the judgment in Ms. Spencer’s case without notice and hearing; and signing the order entered on June 12, 2012 submitted by the Gray Law Firm which did not reflect the oral ruling as reported on the CCAP

record for the May 23, 2012 hearing.

33. In her “Continuing Objection,” Nora stated that:

Whereas it was first thought that Judge Potter was confused and was, as a result of pride, unable to admit to his confusion, it is now clear that Judge Potter is not confused but is actually participating in a manipulation of the proceedings to deny Sheila M. Spencer the opportunity to be heard in defense of her rights to her home.

Ex. 20:6, ¶14; Tr. at 391:8-17 (emphasis added).

33. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora’s statements out of context, quoting Nora’s statement in ¶33 of the Continuing Objection with emphasis added and ignoring the context in which the statements were made. 3

34. In her “Continuing Objection,” Nora stated that:

The manipulation of the Transcript to remove some of the most damning evidence of bias . . . discloses a whole new issue: that Judge Potter is complicit in the manipulation of the proceedings and of the record.

Ex. 20:6, ¶15; Tr. at 391:18-392:5 (emphasis added).

34. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora’s statements out of context. OLR omitted the following part of the foregoing statement and replaced it with ellipsis: “such as the missing statement that Judge Potter blames Sheila M. Spencer for the miscarried proceedings when it should have been evident that it is GRAY & ASSOCIATES, LLP

whose lawyers are deceiving the Court and removing all context and use of the word trial.”
Nora’s actual statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true.

35. In her “Continuing Objection,” Nora stated that “the ‘civil filings’ clerk was participating in the scheme to deprive this counsel of copies of documents which she did not receive.” Ex. 20:6, ¶¶ 16; Tr. at 392:6-12.

35. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora’s statements out of context Nora’s statement above in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) is believed in good faith to be true. It is the duty of a clerk of any court, under the scheme of paper filings which is now being replaced, to provide copies of documents to the public as well as the parties and their attorneys for the statutory fee. Nora had never previously been denied access to court records filed on paper in courts outside the location of her principal office, on request and pre-payment of the statutory fee, which Nora offered to pay.

36. In her “Continuing Objection,” Nora stated that Judge Potter had not removed himself from the case “because he is now being shown to be actively assisting” the Gary (sic) Firm. Ex. 20:7, ¶18; Tr. at 393:6-394:17.

36. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora’s statements out of context Nora’s statement above in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) was believed

in good faith to be true. Had the foregoing factual allegation been approved by the PRC and pleaded in advance of the hearing, substantial resources would not have been expended between September, 2015, when OLR first attempted to file the allegations set forth in its Second Amended Complaint in *OLR v. Nora*, No. 2013AP000653-D (Nora #1) and, being denied leave to do so, then filed its November 30, 2015 Complaint and served Nora with the Complaint and Order to Answer on or about December 2, 2015 through May 15, 2017 when OLR (without the approval of the PRC) finally set forth extensive, never before pleaded allegations of fact in its Post-Hearing Brief.

37. In her “Continuing Objection,” Nora referred to Judge Potter as being “[c]omplicit in the long and convoluted proceedings whereby false documents and ex parte proceedings are the modus operandi of Gray & Associates, LLP supported by Judge Potter.” Ex. 20:7, ¶19; Tr. at 394:18-24.

37. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora’s statements out of context Nora’s statement above in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true.

38. Although Nora testified that she did not accuse Judge Potter of “turning a blind eye to crimes committed within the court process itself” (Tr. at 402: 14-403:1), in her Continuing Objection Nora stated that:

Civil courts cannot be subverted by allowing crimes to go undetected by its officers, including Judge Potter and Sheila M. Spencer’s counsel, and Judge Potter and counsel for Sheila M.

Spencer cannot turn a blind eye to crimes to be committed within the court process itself.

Ex. 20:8, ¶25; Tr. at 402:14-403:1.

38. Nora admits this new allegation and affirmatively alleges that Nora’s testimony regarding her statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) was true. Again, OLR takes Nora’s statements out of context. The statement above is not an accusation against Judge Potter. It clearly states that neither the judge nor Ms. Spencer’s counsel can turn a blind eye to crimes being committed within the court process itself.

39. In her “Continuing Objection,” Nora stated that “Judge Potter has not seen fit to recuse himself yet from these proceedings even after being exposed for ex parte communications and having presided over proceedings which bear no resemblance to proper, neutral court proceedings.” Ex. 20:9, ¶32; Tr. at 403:2-10.

39. Nora admits this new allegation and affirmatively alleges that Nora’s statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora’s statements out of context Nora’s statement above in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true because Nora believed that Judge Potter had a duty to disqualify himself for entertaining ex parte communications from the Gray Firm.

40. In her “Continuing Objection,” Nora stated that Judge Potter “has continued to interfere with the just and proper administration of Wood County Circuit Court.” Ex. 20:9, ¶34; Tr. at 403:11-16.

40. Nora admits this new allegation and affirmatively alleges that Nora's statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora's statements out of context Nora's statement above in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true because Nora believed that Judge Potter had a duty to disqualify himself for having entertained ex parte communications from the Gray Firm.

41. In her "Continuing Objection," Nora stated that Judge Potter "has clearly disqualified himself by his knowing complicity in the miscarriage of justice represented by the proceedings in this case, through ex parte orders and manipulations of the proceedings to do the bidding of [the Gray Firm]." Ex. 20:9, ¶35; Tr. at 403:17-404:4.

41. Nora admits this new allegation and affirmatively alleges that Nora's statements in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true. Again, OLR takes Nora's statements out of context Nora's statement above in the July 23 and July 25, 2012 Continuing Objections (Exs. 19 and 20) were believed in good faith to be true because Nora believed that Judge Potter had a duty to disqualify himself for having entertained ex parte communications from the Gray Firm.

42. After hearing on August 8, 2012, Judge Potter denied Nora's motion seeking his disqualification in the Spencer case. Ex. 21; Ex. 309; Tr. at 414:9-416:18.

42. Nora admits this new allegation and affirmatively alleges that Nora drafted the subject proposed order for Judge Potter's signature after the hearing on August 8, 2012.

At the hearing, on Ms. Spencer's behalf, Nora agreed that if there would be no more ex parte communications in the case, Judge Potter would not be required by Ms. Spencer to disqualify himself. That Nora drafted the order following the August 8, 2012 hearing for Judge Potter's signature as shown by the transmittal of the Order from her office's FAX machine. She properly obtained the Gray Law Firm's approval as to the form of the order and submitted it to Judge Potter for his signature. (OLR Ex. 21) By the new allegation in this ¶42 (which was not approved by the PRC), OLR is seeking an inference that Nora failed to accomplish her intended goal which OLR posits was to obtain Judge Potter's disqualification. Nora's actual objective was to make sure that there would be no further ex parte communications in the case and she was satisfied on August 8, 2012 that there would not be and there were no ex parte communications in the case thereafter. As to Judge Potter's perceived actual bias against Ms. Spencer, that issue arose again when Nora sought and was granted leave to withdraw and Ms. Spencer pro se sought his disqualification.

43. On August 13, 2012, Nora filed the list of issues as directed by the court at the May 23, 2012 hearing. Ex. 7A; Tr. at 417:7-14.

43. Nora admits this new allegation and affirmatively alleges that Nora was allowed by the Court to file Ms. Spencer's List of Issues by August 13, 2012. The Court's May 23, 2012 directive was modified on August 8, 2012 (Ex. 309) to allow the list of issues to be filed on or before August 13, 2012.

44. In the list of issues, Nora repeats her allegations about ex parte communications between the Gray Firm and Judge Potter made in her June 27 "Affidavit of Non-Receipt," in the

June 28 motion seeking recusal of Judge Potter, and in the original and amended “Continuing Objection,” she had filed in the Spencer matter. Ex. 7A:6-10, ¶29; Exs. 13, 14, 19, 20; Tr. at 418:3-420:13.

44. Nora admits this new allegation and affirmatively alleges that the list of issues was prepared and filed in compliance with the Court’s May 23, 2012 oral ruling, as modified on August 8, 2012 to guide the court in further proceedings and to preserve the record. As with the most of the 174 factual allegations set forth in OLR’s May 15, 2017 Brief, this new allegation was not approved by PRC, was not made prior to the commencement of the hearing, contrary to *Ruffalo*, supra, and *Hersh*, supra, and Nora had no notice or opportunity to prepare to defend or be heard on the new factual allegations. Because OLR has the burden of proof on each and every factual and misconduct allegation determined by the PRC, it cannot proceed on factual and misconduct allegations based on facts it claims to have proved at the hearing.

45. On October 3, 2012, Attorney James Carrig first appeared for the plaintiff in the Spencer matter. Ex. 1:7 (Item 71); Tr. at 11:11-16.

45. Nora admits this new allegation and affirmatively alleges that Nora insisted that Attorney Carrig file a formal Notice of Appearance identifying the party he was representing. Nora had been representing Ms. Spencer for four (4) months at the time Attorney Carrig participated in a telephone conference seeking an extension of time for the purported plaintiff to respond to Ms. Spencer’s list of issues at a hearing set on less than 5 days’ notice as required by Wis. Stat. sec. 801.15(4). Nora’s substantive position was that Nora was already bound by the oral of the court that she drafted and the Gray

Law Firm approved after the August 8, 2012 hearing, which was entered on September 12, 2012 and that there was no need for an adversarial hearing to obtain the extension to which Nora was already prepared to agree in the spirit of the September 12, 2012 order.

46. On October 29, 2012, Carrig filed a notice of appearance for the plaintiff in the Spencer matter. Ex. 1:7 (Item 72); Tr. at 11:18-12:2.

46. Nora denies this new allegation and affirmatively alleges that Attorney Carrig did not file a notice of appearance for the named party plaintiff and appeared in the action on behalf of PNC Bank, N.A., on the basis of the unilaterally altered case caption.

47. In response, Nora filed a motion to strike Carrig's notice of appearance. Ex. 1:7 (Item 74); Tr. at 12:3-24.

47. Nora admits this new allegation and affirmatively alleges that Nora moved to strike Carrig's Notice of Appearance on behalf of PNC Bank, N.A. because PNC Bank, N.A. was not a party to the action on October 29, 2013.

48. On December 5, 2012, the court conducted a hearing relative to Nora's objection to Carrig's appearance and to whether PNC Bank was a proper party to the Spencer case. Ex. 1:8 (Item 80); Tr. at 15:12-17:10.

48. Nora admits this new allegation and affirmatively alleges that Nora prevailed at the December 5, 2012 hearing and Attorney Carrig was required to move to amend the case caption. Entry 80, upon which OLR relies reads:

80 12-05-2012 Motion hearing Potter, Gregory J. Sosnowski, Catherine

Additional Text:

Attorney Timothy Mark Brovold appeared by phone means for Plaintiff FNM. Attorney Wendy Alison Nora in court for Defendant Sheila M Spencer. Attorney James J Carrig in court for Plaintiff FNM. Attorney Nora brings a motion to strike and makes her argument in support of same. Attorney Carrig makes a statement. Court states that

Attorney Carrig must file a motion to change the caption within seven days. Attorney Nora will respond in seven days. Motion hearing scheduled for December 21, 2012 at 11:00 am.

(Emphasis added by Nora.)

49. On December 13, 2012, Carrig filed a motion to ratify the action or to substitute PNC Bank as the party plaintiff. Ex. 1:8 (Items 81-83); Tr. at 17:12-18:14.

49. Nora admits this new allegation and affirmatively alleges that the motion to ratify or substitute PNC Bank as the party plaintiff is exactly what Nora sought to have the court consider.

50. On December 21, 2012, Nora filed a response to Carrig's motion to ratify or substitute PNC Bank as the plaintiff. Ex. 1:9 (Items 88, 89); Tr. at 17:12-18:14.

50. Nora admits this allegation and affirmatively alleges that the evidence adduced by Attorney Carrig was insufficient to establish that PNC Bank, N.A. was "the owner and holder" of Ms. Spencer's note and mortgage "true copies" of which were alleged to be attached to the April 7, 2009 Complaint. Attorney Carrig's failure to submit a valid chain of transfer of the note because there is no evidence that FNMC was ever a division of National City Bank of Indiana (he argued that it might have been) led to the discovery that the Federal National Mortgage Corporation (Freddie Mac) claimed ownership of Ms. Spencer's Mortgage. Nora affirmatively alleges that Judge Potter granted the Attorney Carrig's Motion under Wis. Stat. sec. 802.09, not under Wis. Stat. sec. 803.01(1) as filed by Attorney Carrig.

51. After hearing on December 21, 2012, Judge Potter granted the motion Carrig filed for PNC Bank and set a hearing date of March 18, 2013 for the pending motion for summary judgment. Ex. 1:8 (Item 86); Tr. at 20:4-21:20.

51. Nora admits this new allegation and affirmatively alleges that Judge Potter granted the Attorney Carrig’s Motion under Wis. Stat. sec. 802.09, not under Wis. Stat. sec. 803.01(1) as filed by Attorney Carrig. See ¶50, above. Nora further affirmatively alleges that Attorney Carrig sought leave to file a new (third) motion for summary judgment and that, as of January 10, 2013, the date of removal of the Spencer case to the federal district court, based on the discovery of the published admission that Freddie Mac was the owner of Ms. Spencer’s Mortgage, the third motion for summary judgment had not been filed and no motion for summary judgment was pending.

52. On January 10, 2013, Nora filed a notice of removal of the Spencer case to the United States District Court for the Western District of Wisconsin. Ex. 23; Tr. at 22:1-13.

52. Nora admits this new allegation and affirmatively alleges that as of December 21, 2012, the Plaintiff in the Spencer case was PNC Bank, N.A. Nora traced the transaction through FNMC, already known to have been the expired trade name for National City Mortgage Company in the State of Maryland and found evidence that FNMC sold notes and mortgages to the Federal National Mortgage Corporation (Freddie Mac). She then checked the Freddie Mac “loan look up tool” published on-line and publicly available on December 30, 2012 and discovered that Freddie Mac claimed to own Ms. Spencer’s “mortgage loan.”

53. Prior to removing the case to federal court, Nora did not file anything with the state court with respect to an entity referred to as “Freddie Mac.” Tr. at 26:4-7.

53. Nora admits this new allegation and affirmatively alleges that Nora knows of no requirement that she should “file anything with the state court with respect to an entity

referred to as ‘Freddie Mac’” prior to filing the Notice of Removal and OLR cites no authority requiring Nora to do so. 28 U.S.C. sec. 1441, et seq. governs removal of cases from state courts to the federal district court. Nora had 30 days from the date she discovered the published admission that Freddie Mac owned Ms. Spencer’s loan on December 30, 2012 under 28 U.S.C. sec. 1446(b)(1), and she did so on January 10, 2013. Nora believed that PNC could also argue that the effective date of the discovery of other grounds for federal jurisdiction for purposes of removal could date from the filing of PNC’s motion to be substituted or to ratify the action filed in the name of FNMC, an expired trade name under which National City Mortgage was doing business in the State of Maryland: December 13, 2012.

54. Nora’s notice of removal asserted that the Spencer case was removable under 28 USC sees. 1331, 1332, 1334 and 1349. Ex. 23:2.

54. Nora admits this new allegation and affirmatively alleges that Nora admits this allegation and affirmatively alleges that it is not a violation of the Code of Professional Conduct for Nora to cite the jurisdictional authority for the removal of an action to federal district court pursuant to 28 U.S.C. sec. 1441(a).

55. On February 8, 2013, Carrig filed a motion on behalf of PNC Bank to remand the Spencer case to state court. Ex. 3:2; Ex. 24; Tr. at 26:20-28:20.

55. Nora admits this new allegation and affirmatively alleges that this new factual allegation, not approved for filing by the PRC, is not evidence of a violation of the Code of Professional Conduct by Nora. Had this factual allegation been pleaded before the hearing on the Second Amended Complaint (which did not include this allegation), Nora would

have examined Attorney Carrig thoroughly on the assertions he made in the Motion to Remand, what he knew and when he knew it. The Spencer case involved more than another year of litigation before Attorney Carrig was forced to stipulate that Freddie Mac had a beneficial interest in the Spencer Mortgage, despite evidence to the contrary: to wit, the allegation that PNC was the “owner and holder of the note” in ¶1 of the April 7, 2009 Complaint in the state court foreclosure action and the subsequent appearance of a version of a copy of Ms. Spencer’s note ENDORSED IN BLANK purporting to establish negotiation in favor of PNC from FNMC, a division of National City Bank of Indiana (which there is no competent evidence that it ever was) for the first time in response to Ms. Spencer’s Motion to Re-Open her Chapter 7 case to accord relief to her legitimate creditors filed in the United States Bankruptcy Court for the Western District of Wisconsin (WIWD) Case No. 10-15242.

56. On March 4, 2013, Nora filed a brief opposing PNC Bank’s motion to remand the Spencer case. Ex. 3:3; Ex. 25; Tr. at 28:21-29:23.

56. Nora admits this new allegation and affirmatively alleges that it is not a violation of the Code of Professional Conduct for Nora to oppose remand of a removed action to state court.

57. On March 25, 2013, United States District Court Judge Barbara Crabb issued an Opinion and Order granting PNC Bank’s motion to remand and granting PNC Bank attorney fees and costs. Ex. 26; Tr. at 29:24-30:9.

57. Nora admits this new allegation and affirmatively alleges that OLR failed to establish any violation of the Code of Professional Conduct by the removal of the state

court action by clear and convincing evidence at the hearing but now, for the first time, OLR appears to be charging Nora with an ethics violation for filing the Notice of Removal itself. Further affirmatively alleges that the grounds for awarding attorneys' fees and costs which were later found to amount to \$875.00 were based only on Nora's supposed failure to object the award of attorneys' fees and costs in her Reply Brief, when the request for attorneys' fees and costs was based on 28 U.S.C. sec. 1446(c) and Nora was arguing that the removal was objectively reasonable. PNC falsely asserted that a motion for summary judgment was pending, when the truth was that the third motion for summary judgment had not been filed at the time of the removal and was not filed until almost six (6) months after the case was remanded.

58. On April 5, 2013, Carrig filed an itemized request for fees and costs for PNC Bank. Ex. 27; Tr. at 30:10-31:3.

58. Nora admits this new allegation and affirmatively alleges that Judge Crabb initially awarded PNC only \$875.00 in fees and costs for its successful remand motion.

59. On April 8, 2013, Nora filed a motion for reconsideration of Judge Crabb's March 25, 2013 Opinion and Order. Ex. 28; Tr. at 31:3-14.

59. Nora admits this new allegation and affirmatively alleges that it is not a violation of the Code of Professional Conduct for Nora file a motion for reconsideration of attorneys' fees awarding in an order remanding a removed action to state court.

60. Although she testified she did not file a motion for reconsideration of the remand order and only sought reconsideration of the award of attorney fees (Tr. at 689:13-690:8), forty-one of the forty-three numbered paragraphs of Nora's motion for

reconsideration are devoted to asserting that Judge Crabb erred in remanding the Spencer case to state court. Ex. 28; Ex. 39:3.

60. Nora admits this new allegation and affirmatively alleges that Nora’s position is that the court should not have exercised its discretion to award attorneys’ fees and costs because the removal was not “objectively unreasonable,” based on the grounds set forth in the Notice of Removal. Had this factual allegation been authorized by the PRC and clearly made before the hearing commenced, Nora would have more thoroughly examined Attorney Carrig on his assertions in the Motion for Remand, particularly the contention that Freddie Mac could not foreclose against Ms. Spencer because it was not the holder of the note when it was later established that PNC was the custodian of the note, not its holder.

61. The motion for reconsideration “requests that the court reconsider the Order remanding this case to state court entered on March 25, 2013 for its clear errors of law in failing to acknowledge and exercise its original jurisdiction. . .” Ex. 28:8.

61. Nora admits this new allegation and affirmatively alleges that Nora’s position was that the court should not have exercised its discretion to award attorneys’ fees and costs because the removal was not “objectively unreasonable,” based on the grounds set forth in the Notice of Removal. Nora did not oppose the Remand Order itself. She filed an Answer and Counterclaims in the state court on March 26, 2013, which demonstrates that Nora acknowledged the remand to state court jurisdiction (Ex. 1, Entry 92).

62. The motion for reconsideration was not limited to addressing the award of attorney fees and costs to PNC Bank. Ex. 28.

62. Nora denies this new allegation for the reasons set forth in ¶¶57-61 and affirmatively alleges that the ¶¶1-41 of the Motion for Reconsideration were true and formed the basis for Nora’s argument that the removal was not objectively unreasonable. Further affirmatively alleges that PNC made false and/or misleading statements in its Motion for Remand as affirmatively alleged in ¶60, above.

63. On April 15, 2013, Carrig filed a brief for PNC Bank opposing Nora’s motion for reconsideration. Ex. 3:3 (Entry 19); Tr. at 32:6-17.

63. Nora admits this new allegation and affirmatively alleges that the fact that an opposing party filed a brief in opposition to a motion for reconsideration is not evidence of an ethics violation by the attorney who filed the motion. Further affirmatively alleges because this allegation was not specifically pleaded in the OLR’s Complaint, Amended Complaint (presumably approved by the PRC) or Second Amended Complaint (Nora’s position on the filing of the Second Amended Complaint has been preserved), Nora did not have notice and opportunity to prepare or to be heard as to the contents of the brief in opposition to the motion for reconsideration and respectfully alleges that she did not waive her defense to the contents of the said brief.

64. On April 15, 2013, Nora filed an Objection to Award of Attorneys’ Fees and Reply on Motion for Reconsideration. Ex. 20; Tr. at 31:15-25.

64. Nora admits this new allegation and affirmatively alleges that Nora was allowed, if not required, to do so.

65. In her reply, Nora sought reconsideration of the decision to remand and asserted that “the remand is appealable as decided on grounds other than those set forth in 28 USC sec.

1447(c).” Ex. 29:6 (para. 18).

65. Nora admits this new allegation, in part, and denies the inference to be drawn from this new allegation, to wit: that Nora did not have a good faith legal basis for this contention. Nora further affirmatively alleges that abstention is not among the grounds for remand which renders a remand order unappealable. 28 U.S.C. sec. 1447(c) provides for remand for defects in the notice of removal. The district court’s decision to abstain is not a defect in the removal. Had this factual allegation been approved by the PRC and pleaded so that Nora had notice of this factual allegation before the hearing commenced as required by Ruffalo, supra, and Hersh, supra, Nora would have had an opportunity to defend against the new allegation that she contended that abstention is not a defect in jurisdiction within the meaning of 28 U.S.C. sec. 1447(c). Just because Nora made the newly-challenged statement that abstention is not a unappealable basis for remanding a removed action (and she further contended that laches is not a unappealable basis for remand either) does not mean that she intended to appeal from the remand order. OLR did not plead this factual allegation before the hearing and the PRC did not make this factual determination. Nora could not prepare to be heard in her defense against the new allegation in ¶65.

66. On May 23, 2013, Judge Crabb issued an Opinion and Order denying the motion for reconsideration, characterizing the motion for reconsideration as “frivolous,” and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 30:1, 7.

66. Nora admits this new compound allegation in part and, for the reasons set forth in ¶¶52-65, affirmatively alleges that the Notice of Removal did not violate the Code of

Professional Responsibility at SCR 20:3.1(a)(1), (2) or (3). Nora further affirmatively alleges that there is an apparent misunderstanding which followed through the appeal to the Seventh Circuit Court of Appeals that Nora, on her own behalf and on behalf of Ms. Spencer, as appealing from the remand order. She appealed only from the award of attorneys' fees and costs which the Seventh Circuit Court of Appeals correctly held survived the remand, just as Nora contended in the second motion for reconsideration which was found to be frivolous.

67. In the May 23, 2013 Opinion and Order, Judge Crabb held that the court lacked jurisdiction to reconsider the remand order. Ex. 30:2.

67. Nora admits this newly-formed and specified allegation which was not determined by the PRC, was not ever clearly pleaded and is for the first time alleged in the May 15, 2017 OLR's post-hearing brief. Nora affirmatively defends against this allegation as set forth in ¶66, above, which is incorporated by reference as if fully set forth herein. Simply stated, the federal district court had jurisdiction to reconsider the appealable award of attorneys' fees and costs, just as the Seventh Circuit held.

68. In the May 23, 2013 Opinion and Order, Judge Crabb held that because Spencer "did not have an objectively reasonable argument supporting federal jurisdiction, it is appropriate to award plaintiff fees incurred in its motion to remand." Ex. 30:6.

68. Nora admits this new allegation and affirmatively alleges that Nora urged the Judge Crabb had the discretion to award or not to award attorneys fees for seeking the remand. Asking a court to exercise its discretion to not award attorneys' fees on remand of a removed action is not a violation of the Code of Professional Conduct as a matter of law.

69. On June 7, 2013, Nora filed a second motion for reconsideration of the award of attorney fees. Ex. 31; Tr. at 33:7-18.

69. Nora admits this new allegation and affirmatively alleges that it not a violation of the Code of Professional Conduct to seek reconsideration of an order when the order sets forth new issues which are believed in good faith to be clearly erroneous or manifestly unjust. Again, if OLR had determined this factual allegation and authorized OLR to plead it, Nora would have had the opportunity to prepare and be heard in defense of this

70. In the second motion for reconsideration, Nora stated:

This Court determined that Ms. Spencer did not have the right to seek reconsideration of the Court's Order remanding the case to the state foreclosure court entered on March 25, 2013 because the Court remanded the case under 28 USC sec. 1447(c) and is not appealable under 28 USC sec. 1447(d). The Court is wrong. On reconsideration it clearly elucidated that a part of its remand is based on abstention, as it had implied in the remand order.

Ex. 31:1 (emphasis added).

70. Nora admits this new allegation and affirmatively alleges that abstention is not among the grounds for which a remand order is unappealable under 28 U.S.C. sec. 1447(d). Nora affirmatively alleges that only findings of defects in jurisdiction under 28 U.S.C. sec. 1447(c) are unappealable under 28 U.S.C. sec. 1447(d). It is not a violation of the Code of Professional Conduct to state that a judge is wrong as a matter of law. It is done all the time on reconsideration, although the more commonly used phrases are that the court is mistaken, the court misapprehended, or the court abused its discretion.

71. The second motion for reconsideration rehashes the same arguments Nora had asserted in her notice of removal. Exs. 23, 31.

71. Nora denies this new allegation and affirmatively alleges that OLR's characterization of the Second Motion for Reconsideration is incorrect. Nora affirmatively alleges that the second motion for reconsideration of course involved issues which are related to the Notice of Removal and the Motion for Remand, but addressed the new issues arising on reconsideration. Nora further affirmatively alleges that it is not a violation of the Code of Professional Conduct to move for reconsideration of court order, if there is a good faith basis for doing so. OLR would have the burden of proof by clear and convincing evidence

72. On July 2, 2013, Judge Crabb issued an Opinion and Order denying the second motion for reconsideration and awarding PNC Bank costs and fees incurred in opposing the motion. Ex. 32; Tr. at 33:19-34:5.

72. Nora admits this new allegation and affirmatively alleges that an appealable award of attorneys' fees on remand is not clear and convincing evidence of an ethics violation any more than a court finding that a position is "frivolous" is clear and convincing evidence that the SCR 20:3.1(a)(1) or (2) was violated. As to any suggestion that SCR 20:3.1(a)(3) was violated, there is no evidence whatsoever that Nora removed the Spencer case to federal court merely for the purpose of harassing or maliciously injuring another.

73. On July 10, 2013, the United States District Court for the Western District of Wisconsin entered a judgment awarding \$875 to PNC Bank for costs and fees incurred in opposing the first motion for reconsideration. Ex. 33; Tr. at 34:6-20.

73. Nora admits this new allegation.

74. On July 10, 2013, Nora filed a notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013. Ex. 34; Tr. at 34:21-35:1.

74. Nora denies this allegation and affirmatively alleges that the Notice of Appeal was filed on July 29, 2012. She affirmatively alleges that it is not a per se violation of the Code of Professional Conduct to file a Notice of Appeal.

75. In the notice of appeal, Nora identified herself as a defendant-appellant “individually and in her capacity as counsel for Sheila M. Spencer.” Ex. 34.

75. Nora admits this new allegation and affirmatively alleges that she did so because she believed that she had an ethical duty to indemnify Ms. Spencer and was making a good faith argument that she had standing to appeal based on her duty to indemnify Ms. Spencer.

76. Nora filed nothing with the court seeking to be made a party to the case prior to filing the notice of appeal. Tr. at 35:2-9; Ex. 3.

76. Nora admits this new allegation and affirmatively alleges the issue identifying herself as a party to the appeal for the purpose of indemnifying Ms. Spencer under Fed. R. App. P. 4(a)(1)(B) and to exonerate herself from judicial criticism was based on a good faith argument for the extension or modification of existing law. As OLR recognizes in its new factual allegation in the Rinaldi Matter set forth at ¶40, below that the Seventh Circuit has a narrow interpretation of standing of an interested party to appeal. Nora was seeking to broaden the narrow interpretation of standing when the issue on appeal is attorneys’ fees awarded based on the legal position taken by the attorney.

77. Nora knew that remand orders were not appealable under Title 28 of the United States

Code. Tr. at 693:20-25.

77. Nora denies this new allegation, in part, and affirmatively alleges that Nora did not appeal the remand order to the Seventh Circuit Court of Appeals in No. 13-2676. She appealed the award of attorney's fees in her own name on the grounds that she had a duty to indemnify Ms. Spencer and on Ms. Spencer's behalf, arguing that the remand was objectively reasonable as taken within 30 days after the discovery that the Federal Home Loan Mortgage Corporation (Freddie Mac) claimed ownership of Ms. Spencer's mortgage loan. She further affirmatively alleges that only remand orders based on defects in jurisdiction under 28 U.S.C. sec. 1447(c) are unappealable and the remand orders based on any other reasons are appealable. Nevertheless, Nora did not appeal from the remand order itself, but did appeal from the award of attorneys' fees.

78. On July 30, 2013, the United States District Court for the Western District of Wisconsin entered an amended judgment awarding \$4,928.47 to PNC Bank for costs and fees incurred in opposing the removal. Ex. 35; Tr. at 35:12-36:1.

78. Nora admits this new allegation and affirmatively alleges that the judgment for attorney's fees and costs was awarded against Ms. Spencer only, which was the basis for Nora's position that she had a duty to indemnify Ms. Spencer because Ms. Spencer followed Nora's legal advice in filing the Notice of Removal. Represented parties are not liable for the legal positions taken by their attorneys under Fed. R. Civ. P. 11(c)(5) and Judge Crabb based the award of attorneys fees on a finding that the Second Motion for Reconsideration of the Remand Order was "frivolous," not that the removal was "objectively unreasonable."

79. On July 31, 2013, Nora filed an amended notice of appeal from the opinions and orders entered by Judge Crabb on March 25, May 23 and July 2, 2013 and the judgment and the amended judgment entered by the Western District on July 10 and July 30, 2013, respectively. Ex. 36; Tr. at 36:2-13.

79. Nora admits this new allegation and affirmatively alleges that the the Amended Notice of Appeal was filed because the July 10, 2013 judgment granting attorneys' fees was amended on July 30, 2013.

80. In the amended notice of appeal, Nora identified herself as a defendant-appellant "individually and in her capacity as counsel for Sheila M. Spencer." Ex. 36.

80. Nora admits this allegation and affirmatively alleges that she filed the Amended Notice of Appeal naming herself as a party for the reasons stated in ¶¶75-78 because she has a duty to indemnify Ms. Spencer for attorneys' fees and costs incurred based on Ms. Spencer following Ms. Nora's legal advice and she agreed to indemnify Ms. Spencer.

81. Nora filed nothing with the court seeking to be made a party to the case prior to filing the amended notice of appeal. Tr. at 36:11-13.

81. Nora admits this allegation and affirmatively alleges that ¶81 is vague and ambiguous because it does not specify in which court (district court or the Seventh Circuit Court of Appeals) Nora was legally required to move to be added to the case caption on appeal. Further affirmatively alleges that if the OLR meant to say that Nora should have filed a motion to be added to the case caption in the district court, Nora knows of no authority for a requirement that she do so and OLR identifies none. If OLR meant to say

that she should have filed a motion in the Seventh Circuit Court of Appeals, it is not possible to file a motion in the Seventh Circuit Court of Appeals before the Notice of Appeal is filed. The Amended Notice of Appeal was filed immediately after the amended judgment of July 30, 2013 was filed and, because there is no requirement that she move to amend the case caption in the district court, there is no corresponding procedure for amending the caption in the Seventh Circuit Court of Appeals. The procedure which was taken by the Seventh Circuit Court of Appeals which was to enter order the filing of jurisdictional memoranda on the issue of Nora's standing was followed.

82. On July 31, 2013, the United States Court of Appeals for the Seventh Circuit issued an order directing Nora and Spencer to file a memorandum stating why the appeal should not be dismissed for lack of jurisdiction. Ex. 4:3 (Entry 2).

82. Nora admits this allegation and affirmatively alleges that the order for the parties to file jurisdiction memoranda which was also required of PNC, which first deferred and was then subject to an Order to Show Cause for Noncompliance and then complied.

83. On August 14, 2013, Nora filed a Jurisdictional Memorandum with the Seventh Circuit asserting that she had "the right and indeed the obligation to appear in her individual name and capacity as an aggrieved party." Ex. 37:2.

83. Nora admits this allegation and affirmatively alleges that OLR has correctly quoted Nora's statement in this new factual allegation which was not determined by the PRC or authorized to be pleaded. Had OLR properly pleaded this factual allegation, Nora would have been on notice and would have had the opportunity to respond at the hearing

or would have proceeded on stipulated facts at a greatly reduced expense.

84. In her Jurisdictional Memorandum, Nora stated that “Judge Crabb has engaged in a campaign of libel against Attorney Nora which will be addressed to the appropriate fora.” Ex. 37:3.

84. Nora admits this allegation and affirmatively alleges that OLR has correctly quoted Nora’s statement in this new factual allegation which was not determined by the PRC or authorized to be pleaded. Had OLR properly pleaded this factual allegation, Nora would have been on notice and would have had the opportunity to respond at the hearing or would have proceeded on stipulated facts at a greatly reduced expense.

85. In her Jurisdictional Memorandum, Nora stated she was the real party in interest on the appeal because she was the “target” of the sanctions and she was “ethically required” to indemnify Spencer for the award of attorney fees and costs. Ex. 37:5.

85. Nora admits this allegation and affirmatively alleges that OLR has correctly quoted Nora’s statement in this new factual allegation. Nevertheless, ¶85 was not determined by the PRC or authorized to be pleaded. Had OLR properly pleaded this factual allegation, Nora would have been on notice and would have had the opportunity to respond at the hearing or would have proceeded on stipulated facts at a greatly reduced expense.

86. On August 23 and September 10, 2013, Carrig filed memoranda for PNC Bank addressing jurisdiction as required by the Seventh Circuit. Ex. 4:3 (Entries 5-8); Tr. at 40:15-41:3.

86. Nora admits this new and essentially irrelevant allegation which was not

determined by the PRC. Nora, however, affirmatively alleges that Attorney Carrig failed to address the jurisdictional issue in his August 23, 2013 memorandum and an Order to Show Cause why PNC Bank, N.A. should not be sanctioned for noncompliance with the order was issued on August 15, 2013 and on September 10, 2013, Attorney Carrig filed the jurisdictional memorandum on behalf of PNC Bank, N.A. While the allegation in ¶86 was not approved by the PRC or pleaded any of OLR's complaints, it is essentially immaterial to the misconduct allegations against Nora. This new allegation suggests that OLR is making immaterial factual allegations based on data gathered from Docket Reports.

87. Briefing on the Spencer appeal was delayed from October 23, 2013 to March 10, 2014, by reason of Nora filing a bankruptcy proceeding for Spencer. Ex. 43-4 (Entries 14-23); Tr. at 439:11-16.

87. Nora admits this allegation and affirmatively alleges that this ¶87 is not a factual determination made by the PRC as a basis for any allegation of misconduct against Nora and affirmatively alleges that it is not an ethics violation for an attorney to file a bankruptcy petition for a client while an appeal is pending.

88. After briefing and oral argument, on August 13, 2014, the Seventh Circuit issued its decision in the Spencer appeal. Ex. 4:4-5 (Entries 24-55); Ex. 39.

88. Nora admits this allegation and affirmatively alleges that this ¶88 is not a factual determination made by the PRC as a basis for any allegation of misconduct against Nora and affirmatively alleges that what appears to have been authorized by the PRC was already admitted by Nora, i.e., the content of the subject decision at ¶¶ 59 and 60 of her September 7, 2016 Answer and Motion to Dismiss, so OLR did not have the burden of

proving this allegation. The allegations which are verbatim statements from the decisions of the Seventh Circuit Court of Appeals are subject to Nora’s affirmative defenses set forth in her September 7, 2016 Answer and the new factual allegations made after hearing without any reference to the substantial evidence in support of Nora’s affirmative defenses exemplifies why OLR’s failure to follow the requirements of SCR 22.11(2) is so wasteful and expensive.

89. The Seventh Circuit dismissed Nora’s appeal because she lacked standing to appeal, affirmed the district court’s award of costs and attorney fees against Spencer because “there was no objectively reasonable basis for federal jurisdiction or removal,” concluded the appeal was “frivolous,” and ordered Nora to show cause “why she should not be sanctioned for pursuing this frivolous appeal.” Ex. 39:3-4.

89. Nora admits this allegation and affirmatively alleges that ¶89 is not a factual determination made by the PRC as a basis for any allegation of misconduct against Nora. Nora incorporates by reference her affirmative allegations set forth in ¶88 as if fully set forth herein.

90. On August 15, 2014, Nora filed an initial response to the Seventh Circuit’s order to show cause and asserted that “there are numerous factual findings which are not supported by any evidence in the record, for which judicial notice was not properly taken and which are offered to be proved to be clearly erroneous.” Ex. 40:2; Tr. at 45:1-18.

90. Nora admits this allegation and incorporates by reference as if fully set forth herein her affirmative allegations in ¶88.

91. Nora’s “Initial Response” rehashes the same arguments she had advanced in the

notice of removal, in the briefs she had filed with the district court, and in the jurisdictional memorandum. Exs. 23, 25, 28, 31, 37, 40.

91. Nora admits this allegation and affirmatively alleges that OLR did not plead in this new factual allegation which was not determined by the PRC or authorized to be pleaded. Had OLR properly pleaded this factual allegation, Nora would have been on notice and would have had the opportunity to respond at the hearing that Nora was required to address the issues raised by the Seventh Circuit panel, which necessarily involved the arguments she made in the proceedings.

92. In her “Initial Response,” Nora asserted that Judge Crabb had removed the seal from her medical records in a matter arising out of her personal bankruptcy case (*In Re Nora*, No. 10-3131) and that “it was nonetheless libelous for Judge Crabb to do so.” Ex. 40:6, 11; Tr. at 451:23-452:12.

92. Nora denies this allegation and affirmatively alleges that Nora’s personal bankruptcy case filed in the Western District of Wisconsin from which the appeal was taken is Case No. 09-16622. Nora appealed to the United States District Court for the Western District of Wisconsin from the Bankruptcy Court’s Order lifting the automatic stay as Case No. 10-cv-68. She sought an extension of the briefing schedule due to a medical incapacity and filed medical records under seal in support of the Motion for Extension of Time to file her initial brief. On February 17, 2010, Magistrate Judge Crocker entered a Text Order sealing Nora’s medical records. Retained counsel for OLR knows or should know that Nora’s medical records had been filed under seal in Case No. 10-cv-68 from the proceedings in *OLR v. Nora*, No. 2013AP000653-D (Nora #1) and this

factual allegation (not determined by the PRC) erroneously states that Nora’s personal bankruptcy case is Case No. 10-3131. Nora’s appeal to the Seventh Circuit Court of Appeals from the dismissal of her appeal in Case No. 10-cv-68 from the order in Case No. 09-16622 is No. 10-3131. OLR cannot have possibly proved by clear and convincing evidence that Nora made the statement it has alleged. This exemplifies the problem of OLR making factual allegations after the hearing but moreover it shows the recklessness with which OLR has proceeded to make false legal and factual representations in this matter.

93. Nora acknowledged that Exhibit 55 was a copy of the decision where Judge Crabb had removed the seal from her medical records. Tr. at 455:3-6.

93. Nora admits this allegation and affirmatively alleges that Nora’s statement in this new factual allegation which was not determined by the PRC or authorized to be pleaded. Had OLR properly pleaded this factual allegation, Nora would have been on notice and would have had the opportunity to respond at the hearing to the contents of the decision. Nora was not on notice that the contents of the Exhibit 55 formed the basis of any charge of misconduct against Nora.

94. Nora asserted that Judge Crabb was in contempt of an order of the Seventh Circuit when she removed the seal from the medical records. Ex. 54:1; Tr. at 456:7-16.

94. Nora admits this allegation and affirmatively alleges that this factual allegation was not determined by the PRC or pleaded by OLR and no where in the factual allegations under the heading “U.S. District Court: Judge Crabb” was Nora charged with misconduct for writing Exhibit 54. See OLR’s complaints at ¶¶31-45. Had the contents of the Nora’s August 10, 2011 letter (Ex. 54) been determined by the PRC and set forth as a misconduct

allegation, Nora would have responded that her August 10, 2011 letter was an unseemly emotional reaction to Judge Crabb's publication of her medical records. As an experienced lawyer, she should not have allowed herself to have an emotional reaction to Judge Crabb's publication of her confidential medical records. She should have appealed from Judge Crabb's order and should have reported Judge Crabb's conduct to the appropriate authorities. In mitigation, Nora offers that she was a victim of a violation of Wis. Stat. sec. 146.84(2), which was discovered in Nora #1. Nora did not become aware of that OLR did not believe that her temporary medical condition from December 24, 2009 to mid-June, 2010 posed a threat to the public until April 8, 2016. If Nora had been charged with misconduct for writing the August 10, 2011 letter, Nora would have had notice of the misconduct allegation and would have had the opportunity to prepare her defense and a full hearing on the merits and in mitigation. At most, a private reprimand is the appropriate discipline for her emotional reaction to Judge Crabb's publication of her confidential medical information, considering her shock and dismay at the unexpected event. But Nora was never charged with misconduct before the hearing commenced and until OLR's May 15, 2017 brief. Nora was denied the opportunity to prepare a defense on the merits and in mitigation and was denied a full hearing on a misconduct allegation never made, contrary to *Ruffalo*, *supra*, and *Hersh*, *supra*.

95. The basis for Judge Crabb removing the seal from Nora's medical records was that Nora did not file the documents under seal under a prior protective order and that Nora did not move to have the documents sealed until she brought a motion for contempt against opposing counsel in her bankruptcy case. Ex. 55:4.

96. Nora admits this new factual allegation and affirmatively alleges that the record shows that Judge Crabb was mistaken. Nora had filed a Motion to Seal her medical records and Magistrate Judge Crocker sealed her medical records by Text Order on February 17, 2010. See Request for Judicial Notice, Exhibit 1, Entries 7 and 10. Nora's badly articulated point in her August 10, 2011 letter was that the same records had been sealed in the Seventh Circuit, which is the Court with supervisory authority over Judge Crabb. She should have moved for reconsideration of Judge Crabb' August 10, 2011 Order because it was clearly erroneous.

96. On August 20, 2014, the Seventh Circuit issued an order directing that Nora file "one proper response" (Ex. 41:1) to the order to show cause addressing four issues, as follows:

- 1) Whether her removal of this case to federal court, the first motion to reconsider the removal, and the appeal of the order awarding fees and costs were frivolous;
- 2) Whether her appeal of the district court's award on her own behalf was frivolous, where she was not a party and the district court did not order her to pay anything;
- 3) Whether the removal of this case to federal court and this appeal were litigated for improper purposes, in particular, to unnecessarily delay the proceedings and to increase the cost of this litigation to her opponents; and
- 4) Whether the accusations she has leveled against her opponents and the courts during this case, including the comments described in this court's opinion, were appropriate advocacy.

Ex. 41:2 (citations omitted); Tr. at 41:20-42:12.

96. The allegation was set forth in the OLR's complaint and Nora admitted that the Seventh Circuit Court of Appeals entered an order with these provisions.

97. On September 2, 2014, Nora filed a petition for rehearing en banc before the Seventh Circuit rehashing all of the same arguments previously made in her filings in the Spencer case. Exs. 23, 25, 28, 31, 37, 40, 42; Tr. at 46:13-58:18.

97. Nora testified that petitions for rehearings en banc necessarily include the factual and legal positions taken on appeal and must provide argument why the Panel decision should be considered by the Court of Appeals en banc. Fed. R. App. P. 35(b) provides:

(b) Petition for Hearing or Rehearing En Banc. A party may petition for a hearing or rehearing en banc.

(1) The petition must begin with a statement that either:

(A) the panel decision conflicts with a decision of the United States Supreme Court or of the court to which the petition is addressed (with citation to the conflicting case or cases) and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions; or

(B) the proceeding involves one or more questions of exceptional importance, each of which must be concisely stated; for example, a petition may assert that a proceeding presents a question of exceptional importance if it involves an issue on which the panel decision conflicts with the authoritative decisions of other United States Courts of Appeals that have addressed the issue.

Nora believed that the Petition for Re-Hearing En Banc met the criteria of both Fed. R. App. P. 35(b)(1)(A) and (B). It was necessary to detail the issues she raised in the district court and on appeal in order to meet the criteria for re-hearing en banc.

98. On September 16, 2014, the Seventh Circuit denied the petition for rehearing en banc. Ex. 43; Tr. at 58:19-59:8.

98. Nora admits this allegation.

99. On September 19, 2014, Nora filed a motion to stay proceedings before the Seventh Circuit in order to provide her an opportunity to file a petition for a writ of certiorari with the

United States Supreme Court. Ex. 44; Tr. at 59:9-23.

99. Nora admits this allegation and affirmatively alleges that a Motion to Stay the Mandate is allowed preliminary to the filing for a petition for a writ of certiorari under Fed. R. App. P.41(d)(2). OLR did not prove an ethics violation by clear and convincing evidence based on the filing a Motion to Stay the Mandate, which is conventional appellate practice.

100. Nora never filed a petition for a writ of certiorari. Tr. at 464:21-466:25.

100. It is not a violation of the Code of Professional Conduct to NOT file a Petition for a Writ of Certiorari. OLR did not prove an ethics violation by clear and convincing evidence based on the nonfiling of a Petition for Writ of Certiorari because filing or not filing a Petition for Writ of Mandamus, of itself, is not an ethics violation and is irrelevant to the misconduct charged in Counts One, Two and Three.

101. On September 19, 2014, Nora filed what was captioned a “Partial Response to Order to Show Cause” issued by the Seventh Circuit. Ex. 45; Tr. at 475:17-476:7.

101. Nora admits this allegation which is not an violation of the Code of Professional Conduct.

102. In her “Partial Response,” Nora denied that she had accused the state court judge and court reporter in the Spencer case of “fraudulently manipulating transcripts.” Ex. 45:7; Tr. at 483:5-17.

102. Nora admits this allegation and affirmatively alleges that no where in Nora’s filings in the state court foreclosure action does the phrase “fraudulently manipulating transcripts” appear. There was one challenged transcript and Nora decided not to pursue

the issue of the altered transcript and chose instead to correct the record to show that a page of the May 23, 2012 Transcript was missing from the version of the Transcript she received. See her November 2, 2012 Motion to Correct the Record, Ex. 21. By the time the collating error was discovered by Ms. Spencer on October 30, 2012, Nora had resolved her concerns about Judge Potter’s tendency to be one-sided in the conduct of the proceedings as of August 8, 2012. (See Exhibit 309 and Ex.21 , which Nora herself drafted.)

103. In her “Partial Response,” Nora stated that “it is the courts themselves which are causing the undersigned’s clients and millions of others to despair and lose faith in the courts.” Ex. 45:11; Tr. at 486:15-21.

103. Nora admits this allegation, which appears no where in the OLRs complaints. If she had been charged with making this statement, she would have affirmatively alleged that it is a true statement as to her clients and that she believes in good faith that it is a true statement with respect to the despair of millions of affected homeowners caused by the Residential Foreclosure Crisis. She would have admitted that she extrapolated her knowledge of her clients’ despair and assumed the same despair of millions of homeowners losing their homes and her projected her clients’ loss of faith in the courts to the millions of homeowners who were losing their homes and were unable to obtain relief in the courts. Because Nora was not charged with making this statement, she was unable to prepare her defense to this new factual allegation, contrary to *Ruffalo*, supra, and *Hersh*, supra.

104. In her “Partial Response,” Nora stated:

By treating the undersigned as an enemy of the courts . . . courts in this circuit are violating the first paragraph of the Preamble of the Standards of Conduct Within the Seventh Circuit by attempting to

punish the vigorous defense of homeowners.

Ex. 45:11; Tr. at 486:22-487:8.

104. Nora admits this allegation, which appears nowhere in the OLRs complaints and affirmatively alleges that OLR has once again used the device of omitting the context of Nora's statements with ellipsis. The omitted portion of the statement is "... whose judges are sworn to uphold the law and fail to do so, based on the underlying biases that whatever entity has the word 'bank' in its name is to be believed and no person who is alleged to owe a 'debt' may be allowed to defend. . ." Nora believes in good faith and based on years of experience representing property owners in foreclosure actions dating back to the Farm Crisis of the 1980s that there is a generally unspoken presumption of regularity in foreclosure proceedings whereby the burden of proof that the equitable remedy of foreclosure should be granted is shifted to the defending party. It is also true that all human beings operate on pre-existing biases as she testified at the hearing. Because Nora was not charged with making this statement, she was unable to prepare her defense to or be heard on this new factual allegation, contrary to *Ruffalo*, *supra*, and *Hersh*, *supra*.

105. In her "Partial Response," Nora refused to withdraw her accusation that opposing counsel had engaged in civil fraud and racketeering. Ex. 45:12; Tr. at 490:3-20.

105. Nora admits this new allegation and affirmatively alleges that statement quoted by OLR was legal position drawn from specific facts. It is not unethical to draw conclusions from specific facts. It is, after all, the attorneys for PNC who commenced and continued the state court action on false allegations, supported by false documents, and provided falsely sworn statements of two (2) employees that the copy of the Note was a true

and correct copy thereof, when PNC's counsel later produced a second version of the Note bearing endorsements, from which it would have been apparent that had been sold in breach of Spencer's contract and would have alerted her that PNC and its predecessor were not the real parties in interest. Without an evidentiary hearing to prove the truth of her conclusion, Nora is being denied the opportunity to be heard and produce evidence in her defense. Nora has brought the matter of crimes of which she has personal knowledge to the attention of judges in civil authority in the United States as she is required to do under 18 U.S.C. sec. 4. She has a duty to do so for herself, for her client in this case (who has personal knowledge of those crimes) and framed her position in the most benign language she could find.

Nora cited *Holt v. Commonwealth of Virginia*, 381 U.S. 131, 85 S.Ct. 1375, 14 L.Ed.2d 290 (1965) for the proposition that a statement of fact, in plain English, cannot in itself be deemed disrespectful. See Ex. 45, page 8.

Because Nora was not charged with making this statement, she was unable to prepare her defense to this new factual allegation nor was she heard in defense of this uncharged allegation, contrary to *Ruffalo*, supra, and *Hersh*, supra.

106. In her "Partial Response," Nora stated, "The bias of this panel and many of the judges in this circuit against homeowners' rights to be heard and defend their homes is apparent in every disputed sentence of the 'findings' in the panel's decision." Ex. 45:13; Tr. at 491:1-8.

106. The statement quoted above does not include the statements Nora made to support the conclusion that the panel's findings of fact were biased. See Ex. 45, pages 13-15, ¶4.a. through ¶4.l., which set forth the factual errors made in the panel's opinion which

are not supported by the record in an attempt to correct the record. Nora detailed the factual basis for her position at Ex. 45, pages 13-15, ¶4.a. through ¶4.l.

107. In her “Partial Response,” Nora characterized a number of statements in the court’s opinion on the Spencer appeal as “false.” Ex. 45:13-14; Tr. at 491:9-493:4.

107. Nora did not “characterize” the Seventh Circuit Panel’s statements as “false.” She identified statements which she offered to prove were false at the evidentiary hearing she requested, but was denied.

108. In her “Partial Response,” Nora characterized as “false” the statement in the court’s opinion that she had accused Judge Potter, PNC’s lawyers, and the court clerk of colluding to conceal the contents of a court order and that she had demanded that Judge Potter recuse himself. Ex. 45:15; Tr. at 495:4-24.

108. Nora offered to prove this statement is false. She did not accuse Judge Potter of colluding with the court clerk to conceal the contents of the June 12, 2012 court order. She stated that the court clerk refused to provide her with a copy of the court order and that the Gray Firm had not sent her a copy of the June 12, 2012 order.

109. In her “Partial Response,” Nora characterized as “false” the statement in the court’s opinion that she had accused the court reporter of intentionally manipulating a hearing transcript at Judge Potter’s direction. Ex. 45:15; Tr. at 498:10-499:10.

109. OLR has changed the language in the Seventh Circuit Panel’s opinion from “fraudulently manipulating” a hearing transcript to “intentionally manipulating a hearing transcript. Nora said neither. What Nora actually wrote was

17. It is unthinkable but unavoidable to consider that Judge Potter and/or the court

reporter edited the Transcript of the hearing on May 23, 2012 to make it appear that Judge Potter was less biased than he is and to remove any reference to trial, which word was stated by counsel for Sheila M. Spencer in her statement in which the word “quickly” was used (Transcript, page 5, line 20) and Judge Potter’s use of the word trial was converted to “hearing” (Transcript, page 19, line 18.)

Exs. 19 and 20, ¶17; see T. 674:5-19.

Nora offered to prove to the Seventh Circuit Panel what she actually wrote.

110. In her “Partial Response,” Nora characterized as “false” the statement in the court’s opinion that she had moved to strike an opposing attorney’s appearance because the case caption improperly identified PNC as a party. Ex. 45: 16; Tr. at 499:24-501:13.

110. Nora moved to strike the appearance of Attorney James J. Carrig as attorney for PNC Bank, N.A. because plaintiff in the action was FNMC, a division of National City Bank of Indiana, n/k/a National City Bank in order to compel the substitution of the real party in interest by motion as allowed by Wis. Stat. sec. 803.01(1).

111. In her “Partial Response,” Nora characterized as “false” the statement in the court’s opinion that in December 2012 the state court scheduled a summary judgment hearing for next March. Ex. 45:16.

111. Nora admits this new allegation and affirmatively alleges that the (third) summary judgment motion was not filed until September 17, 2013 (Ex. 1, Entries 139, 140, and 141) and then only after Nora sought leave to withdraw as Ms. Spencer’s counsel (Ex. 1, Entry 112), which motion was renewed on August 12, 2013 to allow Ms. Spencer time to respond (Ex. 1, Entry 126) and was ultimately scheduled for hearing on September 16, 2013 (Ex. 1, Entry 136).

112. In her “Partial Response,” Nora repeated her assertion that Judge Crabb

was “engaging in a campaign of libel” against her. Ex. 45:7.

112. Nora admits this new allegation and affirmatively alleges that Page 7 of OLR’s Exhibit 4 does not contain Nora’s defense to her position. Her defense appears at length on the entire page 8 of Exhibit 4 and includes Nora’s statement: “If the statement is true, there is no basis for disciplining the undersigned because SCR 20:8.2(a) provides:

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

The truthfulness of the undersigned’s statement is a complete defense to an allegation of unethical conduct because it is not a violation of the Wisconsin Code of Professional Responsibility to make a true statement and she offers to prove her statement to be true.”

113. On October 2, 2014, the Seventh Circuit entered an order awarding PNC Bank \$25,295.00 for attorney fees and \$349.67 for costs. Ex. 46; Tr. at 503:14-504:24.

113. Nora admits this new allegation and affirmatively alleges that Nora objected to this award of attorneys’ fees and costs against Ms. Spencer. Nora’s objection is not in the record because this ¶113, like virtually all of the preceding paragraphs, was not previously alleged by OLR, so Nora could not prepare to defend against this specific allegation which was not determined and approved for pleading by the PRC. OLR quoted large swaths of text from the Seventh Circuit Court of Appeals panel’s opinions, but OLR did not specify what parts of the opinions formed factual allegations of misconduct charges until it made this allegation in its May 15, 2017 brief.

114. On October 3, 2014, Nora filed a letter of supplementary authority relative to the order to show cause. Ex. 47; Tr. at 504:25-505:8.

114. Nora admits this new allegation and affirmatively alleges that the supplemental authority is the Sixth Circuit Court of Appeals September 29, 2014 unpublished opinion, in Slorp v. Lerner, Sampson & Rothfuss, et al., which Nora offered for persuasive value that a sister circuit allowed a private, civil complaint alleging violations of the Racketeer Influenced and Corrupt Organization (RICO) Act under 18 U.S.C. sec. 1964(c) to survive a Rule 12(b)(6) motion to dismiss for failure to state a claim upon which relief may be granted on facts similar to those Nora was alleging in some of her Wisconsin foreclosure cases. The supplemental authority offered was not available to Nora on September 19, 2014 when she filed her Partial Response to the Order to Show Cause. The presentation of supplemental authority is specifically allowed under Fed. R. App. P. 28(j).

115. On October 17, 2014, Nora filed a motion to continue the show cause hearing for medical reasons. Ex. 48; Tr. at 505:9-24.

115. Nora admits this new allegation and affirmatively alleges that Nora was injured in a car accident on September 14, 2014 and was suffering from a mild cognitive impairment, for which she was receiving treatment. She was concerned that her presentation at the scheduled oral argument would be impaired.

116. On October 21, 2014, the Seventh Circuit entered an order denying Nora's motion for a continuance but allowing her to appear by speakerphone. Ex. 49; Tr. at 505:25-506:14. On October 28 2014, Nora appeared in person for the hearing. Ex. 50:3.

116. Nora admits this new allegation.

117. On February 11, 2015, the Seventh Circuit sanctioned Nora the sum of \$2,500 for frivolous and needlessly antagonistic filings. Ex. 50:4; Tr. at 506:15-23.

117. The sanction of \$2,500.00 was imposed and suspended. “We suspend this sanction, however, until the time, if ever, that Nora submits further inappropriate filings.” *In re Nora*, 778 F.3d 662, 667 (2015). Nora has not filed anything in the Seventh Circuit Court of Appeals since February 11, 2015 which was found to be “frivolous” or “needlessly antagonistic” and, in fact, she filed a Motion for Reconsideration of the February 11, 2015 Order on February 25, 2015, which was not found to be “frivolous” or “needlessly antagonistic.

118. The Seventh Circuit’s opinion states that contrary to its direction that Nora limit herself to “one proper response to the show-cause order . . . Nora did not limit herself to one proper response.” Ex. 50:2.

118. Nora admits this new allegation and affirmatively alleges that Nora’s Petition for Rehearing En Banc and Motion to Stay the Mandate were not related to the Order to Show Cause. Those filings were made as allowed by the Federal Rules of Appellate Procedure at Fed. R. App. P. 35 and 41. The Statement of Supplemental Authority was submitted in addition to the September 19, 2014 Initial Response because it was decided by the Sixth Circuit Court of Appeals on September 29, 2014 (Ex. 47) and was not available to Nora when she filed her September 19, 2014 Initial Response. See Fed. R. App. P. 28(j).

119. The Seventh Circuit’s opinion describes Nora’s petition for rehearing en banc as “rehashing her frivolous appellate arguments.” Id.

119. Nora admits this new allegation and affirmatively alleges that petitions for rehearing, by their nature, involve the arguments which were made to the panel.

120. The Seventh Circuit's opinion states that "[i]n responding to our earlier opinion, Nora has dug in her heels and continues to press the same arguments that were thoroughly rejected in the district court and our earlier opinion." Ex. 50:3.

120. Nora admits this new allegation and affirmatively alleges that her position at oral argument before the Seventh Circuit Court of Appeals panel has been explained above. Nora further affirmatively alleges she was not provided with and almost all, new allegation(s) of fact in support of the charges so that she could prepare to defend against this charge at the hearing. The Panel's characterization of Nora's position is not clear and convincing evidence of OLR's misconduct allegations, based on Nora's good faith positions as described above.

121. In addressing its concerns about Nora engaging in "conduct unbecoming a member of the court's bar," the Seventh Circuit stated that:

Nora has repeatedly acted with needless antagonism toward opposing counsel and judicial officers. In her responses to our order to show cause, she has refused to back down from her accusations of libel against Judge Crabb and "actionable civil fraud and racketeering" against opposing counsel. She denies accusing the state court judge of altering transcripts, but the record belies her denial: she not only made the accusations but moved for substitution of the judge on that basis. She also now derides "this panel and many of the judges in this circuit" as being biased "against homeowners' rights to be heard and defend their homes." This bandying about of serious accusations without basis in law or fact is unacceptable and warrants sanctions.

Ex. 50:3 (emphasis added).

121. Nora admits this new allegation and affirmatively alleges that this allegation, which has been explained above, and further affirmatively alleges that Nora lacked sufficient notice of this, and almost all, new allegation(s) of fact in support of the charges so that she could prepare to defend against this charge at the hearing. The Seventh Circuit Court of Appeals panel's characterization of Nora's position is not clear and convincing evidence of Nora's the misconduct alleged by OLR. Nora's positions were taken in good faith.

122. On March 10, 2014, prior to filing her responses to the order to show cause, Nora had filed an amended second motion to disqualify Judge Potter and argued the motion on March 19, 2014. Ex. 1:16-17 (Items 163-72); Tr. at 123:25-125:25.

122. Nora admits this new allegation and affirmatively alleges that this new factual allegation is unsupported by any evidence in the record beyond the events appearing on the Circuit Court Access Program (CCAP). Ex. 1. OLR has presented no evidence that Nora's Amended Second Motion to Disqualify Judge Potter was filed in violation of SCR 20:3.1(a), SCR 3.2 or SCR 8.4(g). There is no evidence that Nora's Amended Second Motion to Disqualify Judge Potter violated the Code of Professional Conduct.

123. At the March 19, 2014 hearing, Judge Potter denied the second motion to disqualify and granted PNC's motion for summary judgment. Ex. 1 (Item 172); Ex. 51; Tr. at 64:13-65:5.

123. Nora admits that Judge Potter denied the Amended Second Motion to Disqualify Judge Potter and granted the (third) Motion for Summary Judgment in the Spencer foreclosure case.

124. On August 20, 2014, the Wood County Circuit Court entered a written order

granting judgment of foreclosure and sale to PNC Bank in the Spencer matter, denying the second motion to disqualify Judge Potter, and dismissing Spencer's counterclaim (sic). Ex. 1 (Item 186); Ex. 51; Tr. at 64:13-65:5.

125. A sheriffs (sic) sale was conducted in the Spencer matter and the sale was confirmed by the Wood County Circuit Court. Tr. at 65:17-21.

125. Nora admits this new allegation which was not pleaded before the hearing, depriving Nora of the opportunity to address the matters involving the Sheriff's sale, the confirmation of the sale, and the related appeals and Petitions for Relief. Moreover, this fact does not support any allegation of misconduct.

126. Nora filed appeals for Spencer from the judgment of foreclosure and sale and from the confirmation of sale. Tr. at 65:14-24.

126. Nora admits this new allegation which was not pleaded before the hearing, depriving Nora of the opportunity to address the matters involving the Sheriff's sale, the confirmation of the sale, and the related appeals and Petitions for Relief. Moreover, this fact does not support any allegation of misconduct.

127. By opinions issued May 16, 2016, the Wisconsin Court of Appeals affirmed the judgment of foreclosure and sale and the confirmation of sale entered by the Wood County Circuit Court. Exs. 52, 53; Tr. at 65:25-66:17.

127. Nora admits this new allegation which was not pleaded before the hearing, depriving Nora of the opportunity to address the matters involving the Sheriff's sale, the confirmation of the sale, and the related appeals and Petitions for Relief. Moreover, this fact does not support any allegation of misconduct.

128. None of the attorney fees and costs awarded by the Seventh Circuit and by Judge Crabb in the Spencer matter have been paid. Tr. at 60:17-81:2.

128. Nora admits this new allegation which was not pleaded before the hearing, depriving Nora of the opportunity to address the matters involving the payment of the attorneys' fees and costs in the removal of the Spencer case and the appeal. There is no evidence whatsoever of Nora's bankruptcy in the United States District Court for the District of Minnesota. Nora was not charged with filing for bankruptcy protection to avoid being held financially accountable for paying attorneys fees' and costs because she was specifically held not liable for paying the attorneys fees' and costs. Nora was not ordered to pay any sanctions by the federal district court or the Seventh Circuit Court of Appeals in the Spencer removal. Instead, Nora holds herself liable for Ms. Spencer's obligation to pay the attorneys' fees and costs awarded by the district court and the Seventh Circuit Court of Appeals and named Sheila M. Spencer as a creditor in her bankruptcy case. Nora's bankruptcy avoided nothing.

THE RINALDI MATTER

1 . On February 3, 2009, HSBC Bank USA ("HSBC") filed an action in the Circuit Court for Kenosha County against Roger and Desa Rinaldi relative to a note and mortgage executed by Roger Rinaldi, Case No. 2009CV353. See Ex. 57:1 (Item 1); Ex. 302; Tr. at 181:15-1, 84:4, 517:14-25.

1. Nora denies this allegation and affirmatively alleges that HSBC Bank USA, N.A. did not file the action to which OLR refers and offers to prove that the action was commenced by Wells Fargo Bank, N.A., using the name of a nonexistent entity. The

identity and existence of the purported entity was not litigated by the Rinaldis pro se.

2 . In Case No. 2009CV353, the court granted judgment of foreclosure and sale in favor of HSBC and dismissed the Rinaldis' counterclaims. Ex. 57:7-8 (Items 65, 73, 43); Tr. at 183:21-186:5.

2. Nora denies this allegation and affirmatively alleges that summary judgment was granted in the name of a nonexistent entity. Nora did not represent the Rinaldis in this action.

3. After the Rinaldis' motion for reconsideration was denied, the judgment was vacated and case dismissed based on a loan modification agreement with the Rinaldis. Ex. 57:11 (Items 95-98); Tr. at 186:7-188:15.

3. Nora admits this allegation and affirmatively alleges that the allegation is generally irrelevant because Nora did not represent the Rinaldis in Kenosha County Circuit Court Case No. 2009CV000353. She represents the Rinaldis, by limited scope appearance, in a second foreclosure action commenced in Kenosha County Circuit Court Case No. 2016CV000473, now pending.

4. On June 10, 2011, the Rinaldis commenced a lawsuit in the Circuit Court for Kenosha County, Case No. 2011CV1477 against, among others, Wells Fargo Bank, N.A. ("Wells Fargo") and the Gray Firm. Ex. 58:1 ; Tr. at 188:1 6-1 90:9.

4. Nora admits this allegation and affirmatively alleges that the Rinaldis commenced the action pro se.

5. Nora first appeared for the Rinaldis in Case No. 2011CV1477 by filing a notice of appearance on August 30, 2011. Ex. 58:3 (Item 29); Tr. at 190:1 4-22.

5. Nora admits this new allegation, in part, and affirmatively alleges that she appeared as co-counsel for the Rinaldis with Attorney Kim A. Lewis of Lewis & Levinson of Twin Lakes, Wisconsin.

6. Motions to dismiss filed by certain defendants were pending when Nora first appeared in the case. Ex. 58:2 (Item 16); Tr. at 191 :23-192:4.

6. Nora admits this new allegation and affirmatively alleges that she and co-counsel, Attorney Kim A. Lewis, undertook the representation of the Rinaldis in order to stipulate to the dismissal of the action for improper personal service.

7. On September 7, 2011, Nora filed a motion to dismiss without prejudice on behalf of the Rinaldis. Ex. 58:4 (Item 30); Tr. at 192:6-1 93:6.

7. Nora admits this new allegation, in part, and affirmatively alleges that she appeared as co-counsel for the Rinaldis with Attorney Kim A. Lewis of Lewis & Levinson of Twin Lakes, Wisconsin.

8. The motions to dismiss were not heard by the court due to a bankruptcy filing made by the Rinaldis on October 14, 2011. Ex. 58:2 (Item 41); Tr. at 193:8-21 .

8. Nora admits this new allegation and affirmatively alleges that Attorney Jay K. Nixon of Racine, Wisconsin filed a Chapter 7 Petition on October 14, 2011 on behalf of the Rinaldis. Ex. 59, page 1.

9. Nora appeared for the Rinaldis in their bankruptcy case. On June 14, 2012, Nora filed an objection to the proof of claim filed by HSBC relative to the Rinaldi note and mortgage. Ex. 59:1 6-1 7 (Entry 77); Ex. 65:3.

9. Nora admits this new allegation, affirmatively alleges that Attorney Jay K. Nixon

of Racine, Wisconsin filed a Chapter 7 Petition on October 14, 2011 on behalf of the Rinaldis. Ex. 59, page 1, and she appeared on behalf of the Rinaldis on November 18, 2011 by substitution of counsel for Attorney Nixon (Ex. 59, Entry 8—proposed Substitution Order was not concurrently submitted) in order to respond to a Motion to Lift the Automatic Stay (Doc. 7) [Ex. 59]. The Substitution Order was finally submitted and Attorney Nixon’s representation was terminated on April 20, 2012. Attorney Nixon did not participate in the proceedings after November 18, 2011, but there was a problem resulting from the software execution of a line item in the Schedule C prepared by Attorney Nixon’s office from which Nora had to argue on the Rinaldis’ behalf.

10. On June 17, 2012, Nora filed an adversary proceeding on behalf of the Rinaldis asserting fraud and racketeering claims against, among others, HSBC, Wells Fargo, the Gary (sic) Firm and certain of its lawyers, and the law firm of Litchfield Cavo and Attorney Markvart, a Litchfield attorney who had appeared for Wells Fargo in Case No. 2011CV1477. Ex. 60:1; Tr. at 193:16-197:1, 197:22-198:9.

10. Nora denies this new allegation, in part, and affirmatively alleges that the adversary proceeding filed on June 17, 2012 did not contain a “RICO Count.”

11. In challenging a proof of claim filed by HSBC, Nora asserted:

. . . objections to the claim includ[ing] that the Note lacks consideration; two mortgage assignments are null and void; another mortgage assignment is a forgery or unenforceable because it was not recorded or perfected prior to bankruptcy; HSBC is not the owner or holder of the Note; and the Note image attached to the claim was fabricated to deceive the Court. Along with disallowance of the claim and the security represented by the Mortgage, the Debtors seek a determination that the proof of claim is false, fraudulent and unlawful.

Ex. 65:5.

11. Nora denies this new allegation, in part, and affirmatively alleges that the adversary proceeding filed on June 17, 2012, sought to be amended on August 22, 2012, and amended only as to the so-called “Bank Defendants” was treated by the Bankruptcy Court as an Objection to Proof of Claim #6 filed by Gray & Associates in the name of a nonexistent entity.

12. In the adversary proceeding, Nora asserted claims against the defendant banks and their counsel, including common law fraud, abuse of legal process and violations of the Fair Debt Collections Practices Act (“FDCPA”), violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), breach of contract and tortious interference with prospective economic opportunity. Ex. 65:5.

12. Nora denies new this allegation, in part, and affirmatively alleges that the adversary proceeding filed on June 17, 2012 did not contain a “RICO Count” and that the Rinaldis sought to amend their Adversary Complaint on August 22, 2012 to substitute the RICO Count for the common law fraud and abuse of process Counts in the original complaint.

13. On February 22, 2013, Bankruptcy Judge Susan Kelley issued a decision relative to the Rinaldis’ objection to the proof of claim and defendants’ motions to dismiss the adversary proceeding. Ex. 65 :3-4; Tr. at 198:10-17, 203:3-21.

13. Nora admits this allegation.

14. Judge Kelley rejected the Rinaldis’ objections to HSBC’s proof of claim, including objections predicated on an allegation that defendants produced a “forged endorsement to the

mortgage note robo-stamped bearing the signature of Joan M. Mills to mislead this court into believing that the note had been timely, properly and authentically endorsed in blank after the commencement of [the foreclosure action].” Ex. 65:13-18.

14. Nora did not object to “HSBC’s Proof of Claim.” She objected to Proof of Claim #6 filed by Wells Fargo Bank, N.A. in the name of a nonexistent entity. On February 22, 2013, Judge Kelley held, in error, that the Rinaldis did not have standing to challenge the Joan M. Mills endorsement which suddenly appeared on the Rinaldi Note for the first time on November 4, 2011, that the Wells Fargo Asset Securities Corporation Asset-Backed Home Equity Trust 2005-2 (“or any similarly named trust”) has standing to foreclose on the Rinaldis. Ex. 65, page 16. On June 10, 2014, the Wisconsin Supreme Court decided *Dow Family, LLC v. PHH Mortgage Corporation*, 2014 WI 56, 354 Wis. 2d 796, 848 N.W.2d 728, 13-0221. in which the defendant was a purchaser from the mortgagor and even the purchaser from the mortgagor had standing to challenge the authenticity of the Note. The *Dow Family* case, supra, at 2014 WI, ¶¶, clearly establishes the standing of a defendant in a foreclosure case (and, correspondingly, a plaintiff in adversary case involving a claim against the plaintiff’s property) to challenge to the authenticity of the Note or a certified copy of the Note. I take the noncontroversial position under Wis. Stat. sec. 403.308 that if the endorsement on the Note is placed in issue, even if the Note itself is authentic, the lack of authority for the endorsement and the lack of capacity of the endorser may be proved by the party challenging the endorsement—in this case, the Rinaldis.

A forged document is void and conveys no rights. *State Bank of Drummond v. Christophersen*, 93 Wis. 2d 148, 286 N.W.2d 547 (1980). Creating and uttering a forged

document as defined in Wis. Stat. sec. 943.38 is a crime in Wisconsin. Transmitting a forged document by wire or mail with the intent to injure person's property rights is a predicate act of racketeering under 18 U.S.C. sec. 1961, et. seq. The June 10, 2005 Note made payable by Roger Rinaldi to Wells Fargo Bank, N.A. was endorsed in the name of Joan M. Mills in the capacity of Vice President of Wells Fargo Bank, N.A. The Rinaldis offered to prove that Joan M. Mills was never a Vice President of Wells Fargo Bank, N.A. and that the endorsement placed on the Note at issue was a forgery in violation of Wis. Stat. sec. 943.38(1)(a), transmitted by wire multiple times, constituting multiple predicate acts, sufficient to satisfy the RICO requirement of two (2) or more predicate acts. Using a forged document to support a Proof of Claim in a Title 11 (Bankruptcy) Case is bankruptcy fraud in violation of 18 U.S.C. secs. 152 and 157. Violations of 18 U.S.C. sec. 157 are RICO predicate acts.

15. Judge Kelley rejected Rinaldis' claims asserted in the adversary proceeding and recommended that the district court dismiss the claims. Ex. 65:18-33.

15. Nora admits this new allegation and affirmatively defends that she had a good faith bases in both law and fact for filing the Rinaldi Adversary Complaint(s) as required by SCR 20:3.1(a)(1) and (2) and there is no evidence whatsoever that she filed the Rinaldi Adversary Complaint(s) merely to maliciously harass or injure another in violation of SCR 20:3.1(a)(3).

16. In rejecting the objections and claims asserted by Nora in the bankruptcy case and in the adversary proceeding, Judge Kelley characterized some of the arguments as frivolous (Ex. 65:13, 21) and preposterous (Ex. 65:29).

16. Nora admits this new allegation and affirmatively defends that the Rinaldis claims were not frivolous nor were they preposterous. It should be noted that in federal practice, unlike Wisconsin state practice, judges are allowed to determine whether or not a claim for relief is plausible. The requirement that a judge make a plausibility determination tends to suggest that a statement of the probability that a claim for relief has been stated should be articulated in gradations—here, the word preposterous was chosen. Nora understands that the proposition that entities that are national banking associations (carefully regulated until the Glass-Steagall Act was repealed) designed transactions to fail may have seemed like a preposterous claim (far beyond improbable) in 2012 when the Rinaldi adversary proceeding was filed. See, however, <https://www.usnews.com/opinion/blogs/economic-intelligence/2012/08/27/repeal-of-glass-steagall-caused-the-financial-crisis>

It would have also seemed preposterous that a national banking association would create instructions to its out-of-house attorneys to request that missing documents be manufactured for use in foreclosure cases but that is exactly what is proved by the Wells Fargo Home Mortgage Attorney Foreclosure Manual, discovered by Nora soon after the press coverage of Attorney Linda Tirelli's exposure of the Manual to the press on March 18, 2013 (Nora Offer of Proof, Exhibit 528, sub-exhibit 4).

Nora believed in good faith that she could prove the allegations in the Adversary Complaint and Amended Complaint. Moreover, counsel for Wells Fargo Bank, N.A., who appeared at the evidentiary hearing as a witness for OLR, stipulated to the entry of Judge Kelley's Order (Exhibit 300) which resolved the issue of whether or not the Rinaldis

Adversary Complaint(s) were “frivolous” by specifically making no finding that the Complaint(s) were frivolous.

17. Nora filed an appeal from Judge Kelly’s decision as to the objection to the proof of claim and an objection to Judge Kelley’s recommendation in the adversary proceeding. The appeal and objection were consolidated and the matter was assigned to District Court Judge J. P. Stadtmueller. Ex. 61:4-5 (Entries 2, 5); Tr. at 196:1 6-1 97:8.

17. Nora admits both parts of this compound allegation.

18. By order dated October 31, 2013, Judge Stadtmueller affirmed Judge Kelley’s decision with respect to the proof of claim and adopted Judge Kelley’s proposed findings of fact and conclusions of law regarding the adversary proceeding. Ex. 61:7 (Item 32); Ex. 66:20-21; Tr. at 203:22-204:12.

18. Nora admits this allegation.

19. Judge Stadtmueller held that Nora failed to comply with the Federal Rules of Bankruptcy Procedure governing appeals. Ex. 66:8-10.

19. Nora admits this new allegation and affirmatively alleges that Nora was not charged bywith failing to comply with the Federal Rules of Bankruptcy Procedure, Part VIII, which governs the procedure in appeals to the district courts or bankruptcy appellate panels. Had she been so charged by OLR, she would have explained: Nora was unable to comply with Fed. R. Bankr. P. 8009(a)(1) because there were two (2) Motions for Reconsideration pending before the Bankruptcy Court from orders entered in the “core proceeding” and she moved the consolidate the Motions into a single appeal to avoid necessity the Rinaldis to pay two (2) appeal filing fees (at \$298.00 for each). The Rinaldis,

who were Chapter 13 Debtors and all of their disposable income was committed to payments under their Chapter 13 Plan, had no disposable income from which to pay filing fees. As a result of their inability to pay two (2) filing fees while the Motion to Consolidate was pending, the appeals were bifurcated and Nora was waiting for the decision on consolidation to file the Designation of Record and Statement of Issues. When the Motion to Consolidate was denied (and the Rinaldis could not afford to pay yet another appeal filing fee), the second appeal filing fee was paid, but clerk had apparently already transmitted the record in the first appeal, so the Statement of Issues and Designation of Record under Fed. R. Bankr. P. 8009(a) was late. Nora moved for leave to file a late Statement of Issues, but her Motion was denied.

20. Judge Stadtmueller's opinion states that "debtors failed to provide a cogent statement of the issues on appeal and also provided briefs that are largely unintelligible" (Ex. 66: 11) and describes the debtors' submissions as (sic ") an unfocused, stream-of-consciousness-style recitation of general grievances the debtors have asserted in various forms since the origination of this litigation in state court" (Ex. 66:14).

20. Nora admits this new allegation affirmatively alleges that the failure to comply with Fed. R. Bankr. P. 8009(a) was the result of excusable neglect as described in ¶19, above, incorporated by reference as if fully set forth herein, and was not in violation of the Code of Professional Responsibility.

21. Judge Stadtmueller held that any issues as to the assignment of mortgages did not affect HSBC's rights as to the holder of the note. Ex. 66:12-13.

21. Nora admits this new allegation insofar as Judge Stadtmueller made this

statement and affirmatively alleges that HSBC in its general corporate capacity was not the party to which any of the three (3) assignments of mortgage were made. Each of the three (3) assignments of mortgage was made to HSBC Bank USA as Trustee for one of two (2) different Real Estate Mortgage Investment Conduit (REMIC) Trust entity or capacity in its capacity as corporate trustee.

22. Regarding the Rinaldis' racketeering claim, Judge Stadtmueller held that Rinaldis had no injury in fact since they were still living in the residence and did not owe any money beyond that set forth in the mortgage which they agreed to pay. Ex. 66:15.

22. Nora admits this new factual allegation insofar as Judge Stadtmueller made this statement and affirmatively alleges that the injury in fact was the loss of their enjoyment of the home, their costs of litigation, being forced to seek bankruptcy protection, and the mental anguish over the circumstances detailed in the Adversary Complaint(s) and to be proven at trial. Judge Stadtmueller's conclusion should be compared to the decision of Judge Christopher Klein, who, upon the evidentiary hearing in *In re Sundquist*, 570 B.R. 92 (the Rinaldis were denied an evidentiary hearing), awarded actual and punitive damages to the Sundquists in excess of \$5,000,000.00. Exhibit A attached hereto. The Sundquists are still residing in their home. See also the jury verdict in the amount of 5.67 Million Dollars in *Wolf v. Wells Fargo Bank, N.A., et al.* Exhibit B attached hereto. See also *Holm v. Wells Fargo Bank, N.A.*, decided by the Supreme Court of Missouri on February 28, 2017 (en banc, attached hereto as Exhibit C). In addition, see the decisions of the very same Judge Susan V. Kelley and Joseph P. Stadtmueller in *In re Thompson*, issued within several weeks of the Rinaldi decisions (Nora Offer of Proof, Exhibits 528). Finally,

see the decision of Judge Robert Drain in *In re Carrsow-Franklin* (Nora Offer of Proof, Exhibit 528) which cites Judge Stadtmueller's decision in *In re Thompson* as authority.

23. Judge Stadtmueller stated that debtors' activity "has quite obviously been vexatious and time-and resource-consuming; but, more concerning is the fact that their submissions to the Court are nigh-unintelligible." Ex. 66:19.

23. Nora admits this allegation insofar as Judge Stadtmueller made this statement.

24. Judge Stadtmueller also stated that:

Seeing as the debtors' claims are generally meritless, the Court is concerned that the debtors are simply attempting to further stay the defendants' foreclosure of their home. In that case, the abuse of process charges alleged by the debtors against the defendants would actually lie much more appropriately against the plaintiffs. Ex. 66:19-20.

24. Nora admits this new factual allegation insofar as Judge Stadtmueller made this statement.

25. Judge Stadtmueller also stated that:

The debtors are hereby warned, however, that they will find themselves in very deep trouble if additional meritless filings find their way to this Court (seeing as this Court has already had the responsibility of dealing with their all-but-frivolous filings in Case No. 12-CV-1065) and may very well result in significant sanctions.

Ex. 66:20

35. Nora admits this new factual allegation and affirmatively alleges that

26. On November 11, 2013, Nora filed a motion to amend or alter the findings of fact, conclusions of law and judgment entered by Judge Stadtmueller. Ex. 61:7 (Item 34); Ex. 67; Tr. at 204:13-25.

26. Nora admits this new factual allegation and affirmatively alleges that Fed. R. Civ. P. 59(e) provides for the filing of the subject motion.

27. Nora's motion to alter or amend asserted the same kind of arguments that they had previously presented to Judge Kelley and Judge Stadtmueller addressing alleged fraud or forgeries in assignments of the Rinaldi mortgage, including the mortgage "purportedly endorsed by Joan M. Mills as Vice President of Wells Fargo." Ex. 67:2-4. Page 37.

27. Nora denies this new factual allegation and affirmatively alleges that The Rinaldis never argued that the mortgage was "purportedly endorsed by Joan M. Mills as Vice President of Wells Fargo."

28. The banks and defendants in the adversary proceeding filed a response to the motion to amend or alter. Ex. 61:7 (Items 35, 36); Tr. at 205:1-12.

28. Nora admits this new factual allegation generally and affirmatively alleges that parties have a right to oppose motions.

29. On December 13, 2013, Judge Stadtmueller entered an order denying the motion to amend or alter. Ex. 61:7 (Item 37); Ex. 68; Tr. at 205:13-23.

30. In the order denying the motion to amend or alter, Judge Stadtmueller stated that:

. . . the Rinaldis fail to identify any manifest error of law or fact, intervening change in law, or newly-discovered evidence that would entitle them to relief under Rule 59(e) Their arguments at this stage largely derive from perceived factual errors, which were not relevant to the Court's analysis and were not in error, and alleged legal errors, which are simply rehashings of the same meritless arguments raised before. The Court is, therefore, obliged to dismiss the Rinaldis' motion to amend.

With this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney.

Ex. 68:3 (citations omitted).

30. Nora admits this new factual allegation and affirmatively alleges that she did not violate SCR 20:3.1(a) in filing the Rule

31. On December 23, 2013, Nora filed a notice of appeal of the orders entered by Judge Stadtmueller on October 31, 2013 and December 13, 2013. Ex. 61:7 (Entry 38); Ex. 69; Tr. at 205:24-206:7.

31. Nora admits this new factual allegation and affirmatively alleges that it is not an ethics violation to file a notice of appeal.

32. On February 11, 2014, Nora filed a motion to withdraw as Rinaldis' counsel in the Bankruptcy Court, the District Court and the Seventh Circuit. Ex. 59:30 (Entry 148); Ex. 61:8 (Entry 44); Ex. 62:4 (Entry 8); Ex. 72; Tr. at 206:8-207:10.

32. The basis for Nora's Motions for Leave to Withdraw in the Rinaldis' underlying bankruptcy case (WIEB Case No. 11-35689) and in the district court case was that Nora and the Rinaldis had a conflict of interest because they were all subject to a pending Motion for Sanctions under Fed. R. Bankr. P. 9011.

33. On March 4, 2014, Judge Kelley heard Nora's motion to withdraw in the bankruptcy case in conjunction with hearing a motion by the United States Trustee to dismiss the Rinaldis' bankruptcy case for failure to make payments. Ex. 59:30-31

33. The Motion to Dismiss was filed by the Chapter 13 Trustee because the Rinaldis

were unable to make their Chapter 13 Plan payments for several months due to Mr. Rinaldis' employment situation. The Rinaldis did not move to dismiss their Chapter 13. At the hearing on the Chapter 13 Trustee's Motion to Dismiss, Judge Kelley suggested to the Rinaldis, (who were on that day due to a conflict of interest with Nora because the Rinaldis and Nora were both faced with Fed. R. Bankr. P. 9011), that if their case was dismissed their appeal to the Seventh Circuit Court of Appeals would be dismissed as moot. Judge Kelley allowed the Rinaldis to reinstate their Chapter 13 Plan payments, which Nora knew was impossible.

Nora was still representing the Rinaldis in another pending (but stayed) proceeding in Kenosha County Circuit Court Case No. 2011CV001477, so she informed Mr. Rinaldi that even if the appeal was dismissed, she did not believe that it would be (and it was not), they could raise the new issue that foreign trusts must register in with the Wisconsin Department of Financial Institutions before selling securities to five (5) or more persons or any contract made by or for the benefit of the foreign trust is void. Wis. Stat. sec. 226.14. There is evidence that securities had been sold to five (5) or more persons by the entity claiming an interest in the third recorded mortgage on the Rinaldis' Homestead. Wis. Stat. sec. 226.14(1), if the third entity to which Wells Fargo Bank, N.A. purported to assign the same purported first lien mortgage was not the Certificates Series, but was the Wells Fargo Home Equity Asset-Backed Securities 2005-2 Trust. The Rinaldis' have raised Wis. Stat. sec. 226.14(9) as a defense in the second attempted foreclosure against their Homestead now pending in the Kenosha County Circuit Court in Case No. 2017CV000473.

Wis. Stat. sec. provides:

(9) Every contract made by or on behalf of such trust affecting the personal liability thereof, or relating to property within this state, before it shall have complied with the provisions of this section, shall be wholly void on its behalf, or on behalf of its assigns; but shall be enforceable against such trust, and the trustees named in said declaration of trust shall be individually liable therefor.

(Entries. 146, 153); Ex. 71; Tr. at 207:11-208:18.

34. In an oral ruling on March 4, 2014, Judge Kelley dismissed the bankruptcy case but retained jurisdiction over motions for sanctions filed by defendants in the Adversary Proceeding. Ex. 59:30-31 (Entries 153, 155); Ex. 71.

34. Nora admits this new factual allegation and affirmatively alleges that the Motion for Sanctions was resolved by Stipulation and approved by Judge Kelley's Order (Exhibit 300).

35. In an order entered March 5, 2014, Judge Kelley confirmed her oral ruling of March 4, 2014, and denied a motion for reconsideration Nora had filed with respect to Judge Kelley's opinion that dismissal of the case would moot the appeal Nora had filed for the Rinaldis. Ex. 59:30-31 (Entries 146, 154, 155); Exs. 70, 71.

35. Nora admits this new factual allegation and affirmatively alleges that

36. Nora's motion for reconsideration in the bankruptcy case repeated the same arguments previously made based on an alleged "forged endorsement" and stated that "the Rinaldis have decided not to engage in litigation of their new issues in this Court and wish to be set free from the underlying bankruptcy . . ." Ex. 70:2-3.

36. Nora admits this new allegation and denies this new allegation in part and affirmatively alleges that, in addition to the affirmative defense set forth at 33, above,

which is incorporated by reference as if fully set forth herein, the United States Supreme Court held in *Heiser v. Woodruff*, 327 U.S. 726, 66 S.Ct. 853, 90 L.Ed. 970 (1946) that the under the federal doctrine of res judicata, the judgment of a lower court is not final until all appeals had been exhausted. There is nothing whatsoever unethical about preserving a record for further appeals.

37. On April 2, 2014, Nora filed a motion to intervene personally in the Rinaldi case before Judge Stadtmueller. Ex. 61:9 (Entry 46); Ex. 73; Tr. at 209:9-210:3.

37. Nora admits this new factual allegation and affirmatively alleges that Nora had standing to intervene in the appeal from Judge Kelley's Opinion and Order and Report and Recommendations because she was a party to the Motion for Sanctions under Fed. R. Bankr. P. 9011 with the Rinaldis and the Rinaldis, being forced to proceed pro se due to what Nora perceived to be an unwaivable conflict of interest, were not capable of adequately protecting Nora's interests. In the course of subsequent proceedings on appeal, Nora obtained the Rinaldis' written waiver of the conflict of interest, reviewed by counsel who did not have an interest in the Fed. R. Bankr. P. 9011 proceedings to enable her to represent the Rinaldis in the Seventh Circuit's mediation program, in which pro se parties are not allowed to participate. Being confident that the unwaivable conflict of interest has been resolved by other intervening circumstances, Nora thereafter represented both herself and the Rinaldis in the appeal to the Seventh Circuit Court of Appeals.

38. On April 2, 2014, Nora filed a joint motion for the Rinaldis and herself as the proposed intervenor in the case before Judge Stadtmueller seeking relief under Federal Rule of Civil Procedure 60 from the orders from the October 31 and December 13, 2013. Ex. 61:9 (Entry

47); Ex. 74; Tr. at 212:12-23.

38. Nora admits this new factual allegation and affirmatively alleges that Nora had standing to intervene in the appeal from Judge Kelley's Opinion and Order and Report and Recommendations because she was a party to the Motion for Sanctions under Fed. R. Bankr. P. 9011 for the reasons set forth in paragraph 37, above, and incorporated by reference herein. Nora further affirmatively alleges that she had discovered new evidence consisting of the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual* in March, 2014, which was the basis for the Rule 60(b) Motion brought in the federal district court in the Rinaldi matter.

39. In the motion to intervene, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 73.

39. Nora denies this new factual allegation. This allegation ignores the newly discovered evidence of the *Wells Fargo Home Mortgage Attorneys Foreclosure Manual*.

40. In the motion to intervene, Nora asserted a right to intervene in order to defend the motions for sanctions filed by the banks and defendants in the adversary proceeding. Ex. 73:2, 15. She has the standing to do so, even under the narrow interpretation of attorneys' standing under existing Seventh Circuit case law, including the Spencer decision.

40. Nora admits this new allegation and affirmatively alleges that OLR essentially pleads itself out of Court on Count Four alleging violations of SCR 3.1(a)(1), (2), and (3) in the Rinaldi Matter, because it acknowledges Nora's standing to intervene as an interest party in the Rinaldis' federal district court case.

41. In the motion for relief under Rule 60, Nora rehashed the same arguments regarding an alleged forged endorsement of Joan M. Mills previously rejected by the court in the orders of October 31 and December 13, 2013. Ex. 74.

41. Nora denies this new factual allegation for the reasons set forth above.

42. By order dated April 9, 2014, Judge Stadtmueller granted Nora's motion to withdraw as counsel for the Rinaldis, but denied the motions to intervene and for relief under Rule 60. Ex. 75; Tr. at 213:13-17.

43. In the April 9, 2014 order, Judge Stadtmueller also stated that:

Last, as to Ms. Nora's motion to intervene and for Rule 60(b) relief, the Court notes that it has no choice but to impose sanctions against Ms. Nora. In the Court's last order, it noted that "[w]ith this order, the Court hereby makes clear that any further frivolous submissions will result in an award of appropriate sanctions against the Rinaldis' attorney." (Docket #37 at 3 (emphasis in original¹)). Despite that extremely clear warning, Ms. Nora filed the frivolous motions in question. Therefore, the Court will enter a sanctions award against her, using its inherent authority to do so under *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991). The Court will direct that Ms. Nora pay to the Clerk of the Court \$1,000.00 for deposit into the Eastern District of Wisconsin Pro Bono fund. And let the Court be clear: any further frivolous filings will result in even higher sanctions against Ms. Nora.

Ex. 75:2-3.

44. On appeal, the Seventh Circuit stated that "to the extent the adversary claims are not moot, we affirm the dismissal of those claims for substantially the reasons discussed by the district court." Ex. 76:3.

44. Nora admits this new factual allegation and affirmatively alleges that the

¹ No emphasis provided by OLR.

Rinaldis did not argue that the appeal was moot.

45. The Seventh Circuit also applied an exception to the general rule that mootness would (sic) of the appeal would deprive the lower court's rulings of preclusive effect where "losing party causes an appeal to become moot in order to avoid the preclusive effect of an unfavorable ruling." *Id.* The court added, "We refuse to indulge this type of gamesmanship by depriving the sound decisions of the bankruptcy court and district court of preclusive effect." Ex. 76:4.

45. Nora admits this new allegation and affirmatively alleges that the Rinaldis did not engage in the "gamesmanship" suggested by the Seventh Circuit. They consistently argued that the dismissal of the Chapter 13 case did not moot their appeal. The Rinaldis and Nora were seeking a determination of their issues on appeal on the merits and did not argue that the appeals were moot. The Seventh Circuit Panel did not find the Rinaldis' appeal to be frivolous.

46. The Seventh Circuit also affirmed the sanction awarded against Nora, stating that Nora's obligations to her clients did not excuse her disregard of the district court's clear and repeated warnings against continued submission of confusing, frivolous, and needlessly argumentative filings. *Id.*

46. The Seventh Circuit Panel affirmed Judge Stadtmueller's sanction against Nora, finding that it was not an abuse of discretion. The Seventh Circuit Panel did not find that Nora's appeal from the sanction award was frivolous.

Dated at Madison, Wisconsin this 23rd day of February, 2018.

AN IMAGE OF THE SIGNATURE BELOW
SHALL HAVE THE SAME FORCE AND EFFECT AS THE ORIGINAL

A handwritten signature in black ink, reading "Wendy Alison Nora", written over a horizontal line.

Wendy Alison Nora

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WI BAR # 1017043

APPENDIX R

Disciplinary Proceedings Against Wendy Alison Nora, Attorney at Law

2015AP002442-D

Transcript of Proceedings Taken on:

March 27, 2017



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1 STATE OF WISCONSIN

2 IN SUPREME COURT

3 -----
4 IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS
5 AGAINST WENDY ALISON NORA

6 OFFICE OF LAWYER REGULATION,

7 Complainant,

8 vs.

Case No. 15-AP-2442D

9 WENDY ALISON NORA,

10 Respondent.
11 -----

12 VOLUME IV

13
14 DISCIPLINARY PROCEEDING

15 March 27, 2017

16 8:30 a.m.

17 at

18 Gramann Reporting
19 14 West Mifflin Street
20 Madison, Wisconsin

21 Reported by Carla J. Van Roo, RPR
22
23
24
25

Disciplinary Hearing in the above-entitled
action, pursuant to Supreme Court Rules, before Carla
J. Van Roo, Registered Professional Reporter in and
for the State of Wisconsin, at Gramann Reporting,
Madison, Wisconsin, on the 27th day of March, 2017,
commencing at 8:30 a.m. and concluding at 4:21 p.m.

A P P E A R A N C E S:

LAW OFFICES OF JAMES J. WINIARSKI, by
MR. JAMES J. WINIARSKI
3625 West Oklahoma Avenue
Milwaukee, Wisconsin, 53215
Appeared as the REFEREE

STAFFORD ROSENBAUM LLP, by
MR. PAUL J. SCHWARZENBART
222 West Washington Avenue, Suite 900
Madison, Wisconsin, 53701
Appeared on behalf of the Complainant

MS. WENDY ALISON NORA
Appeared Pro Se

-and-

MR. JOHN W. VERANT
9800 69th Avenue
Maple Grove, Minnesota, 55369
Appearing pro hac vice for the Respondent,

I N D E X

PAGE

WENDY ALISON NORA

Continued Cross-Examination by Mr. Verant 660

Redirect Examination by Mr. Schwarzenbart 793

Recross-Examination by Mr. Verant 824

E X H I B I T S

(OLR Binder of exhibits, 1-75,
pre-marked prior to hearing)(Exhibits 1-4, 7a, 8-55, 57-76, 78-79,
received in evidence)A D D I T I O N A L E X H I B I T S
BY RESPONDENT AT HEARING

Exh. 300 - Stipulation for Entry of Order 223

Exh. 301 - Not admitted ---

Exh. 302 - Summons for Case No. 09-CV-0353 826

Exh. 303 - Complaint in 09-CV-283 830

Exh. 304 - Notice of Motion and Motion ---

Exh. 305 - Not admitted ---

Exh. 306 - General Docket, Seventh Circuit
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Exh. 308 - Order by Judge Crabb 834

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Exh. 310 - Amended Appellant's Brief ---

(Exhibits filed with Referee)

1 evidentiary hearing for us to be able to prove our
2 allegations.

3 Q Confining yourself to your motion pursuant to Rule
4 60(b)(2). What newly-discovered evidence were you
5 basing it upon?

6 A The discovery of the Wells Fargo Home Mortgage
7 Attorneys Foreclosure Manual. I believe it's Version
8 1, 3rd Revision, effective November 9, 2011.

9 Q And what is the significance of that manual, in your
10 motion?

11 A The manual was discovered by Attorney Linda Tirelli
12 of the Southern District of New York. She is a
13 bankruptcy practitioner with whom I am acquainted.
14 And she had discovered this manual, had asked for it
15 to be authenticated. Obtained an authentication by a
16 request for admission, and I was made aware of the
17 availability of the manual, we will call it, through
18 reviewing articles in the press. An interview on
19 Democracy Now. And because I know Linda Tirelli, it
20 was something where I communicated with her directly
21 to obtain the manual and the authenticating
22 documents.

23 Q How did you become aware of this manual, vis-a-vis,
24 the time of this whole proceeding? Was it something
25 that you could have previously understood or found,

1 for example?

2 A I stated how I became aware of it.

3 Q At what time did that happen?

4 A I became aware of it in late March 2013. Is that
5 2013? It was in the press. One second, it might
6 have been 2014. Yes, late March 2014. It was in the
7 press, and Attorney Tirelli's interview with
8 Democracy Now was on or about the 18th of March of
9 2014. I know that some newspaper articles were dated
10 that day.

11 Q What is the significance of that manual relative to
12 your 60(b) motion?

13 A It demonstrates what the Rinaldis had been alleging,
14 that there is an electronic system for obtaining
15 documents which are missing from the files of Wells
16 Fargo's out-of-house attorneys who do the
17 foreclosing. So if you have got a missing document,
18 this manual says: Key in your request for this
19 document and we will send you that document
20 electronically.

21 Q And what would be the significance of that relative
22 to the Rinaldi case?

23 A Well, the allegations in the Rinaldi case are that
24 the copy of the Rinaldis' note that suddenly appeared
25 to be endorsed by Joan M. Mills had been manufactured

1 and delivered electronically to make it appear that
2 there had been a negotiation of the note, which is
3 necessary under Wisconsin law in order to establish
4 the equitable assignment of the security.

5 Q Is this --

6 A Also it involved obtaining assignments of mortgage
7 electronically. An assignment of mortgage is missing
8 from the file, provided to the foreclosing law
9 enforcement. You enter your request for that
10 document into the dialogue box, and it's provided to
11 you electronically.

12 Q Is there anything inappropriate about that?

13 MR. SCHWARZENBART: Objection; calls for an
14 opinion, lack of foundation, relevance.

15 THE REFEREE: Well, the weight I attach to
16 it I will determine. I will let you answer the
17 question.

18 THE WITNESS: I don't consider it
19 inappropriate. I consider it evidence of wire fraud,
20 which is a predicate act under RICO, which was what
21 the Rinaldis' alleged. Because documents are being
22 manufactured and transmitted by wire to attempt to
23 take property from homeowners.

24 BY MR. VERANT:

25 Q If you were permitted to enter an exhibit, would

1 there be one that would substantiate this?

2 A Yes. In fact --

3 MR. SCHWARZENBART: Objection; vague.

4 THE REFEREE: Overruled.

5 THE WITNESS: I provided it to Judge
6 Stadtmueller in the Rule 60(b) motion. It was
7 Exhibit A attached to the Rule 60(b) motion, and
8 right now I'm looking for a note that I wrote to
9 myself, if I can find it.

10 Mr. Schwarzenbart, do you want to review
11 what I'm looking at here? It's just notes to myself
12 as to where documents can be located in the offer of
13 proof, and above is a little reminder to myself for
14 the closing argument.

15 MR. SCHWARZENBART: What am I looking at
16 here?

17 THE WITNESS: Just to see that that's what
18 I'm referring to. I thought you wanted to see what I
19 refer to during the course of this proceeding.

20 MR. SCHWARZENBART: No.

21 THE WITNESS: Nothing untoward in there?

22 MR. SCHWARZENBART: I'm not sure what that
23 means, but go ahead. The witness was referring to
24 Exhibit A to her motion. I thought that's what she
25 was talking about.

1 THE WITNESS: Right, and my counsel -- or
2 my co-counsel asked me if there is a document in the
3 offer of proof documentation that would be the Wells
4 Fargo manual that I'm referring to, and I'm
5 indicating that it's in Exhibit 528 at Exhibit 4.
6 And if I may, I know that I Bates numbered this, so
7 if I may get to that offer of proof binder.

8 THE REFEREE: Just so that I'm clear while
9 you're looking for that, what is the -- what is the
10 claim that this offer of proof establishes or gives
11 you some support? What's the purpose of this?

12 I mean, we have a manual. The manual in
13 and of itself isn't inappropriate. Your -- if I
14 understand your position, Attorney Nora, it is that
15 if documents were forged and if they were sent by
16 mail, then there would be grounds for racketeering.
17 Is that essentially what you're saying?

18 THE WITNESS: Wire or mail. Those are the
19 two predicate acts.

20 THE REFEREE: Is there any proof that the
21 manual would supply that in this case these documents
22 were, in fact, forged?

23 THE WITNESS: Yes.

24 THE REFEREE: That's a different issue.
25 That's not the manual.

1 THE WITNESS: Oh, yes, it is. The language
2 in the manual indicates that those documents will be
3 created, made to order.

4 THE REFEREE: So you're saying that the
5 manual -- well, okay, we will let you produce this
6 manual then. Let me see it.

7 THE WITNESS: Thank you. It starts in
8 document -- Exhibit 528 starts at paragraph -- excuse
9 me, page 46, Bates number page 46.

10 THE REFEREE: I want the location of the
11 specific language that you were just referring to
12 that says they can commit an illegal act.

13 THE WITNESS: It's pages 16 to 17 as it
14 applies to the unendorsed notes suddenly become
15 endorsed at the time of the attorney foreclosing on
16 the homeowner needing to show an endorsement.

17 THE REFEREE: So it's your position that
18 those pages essentially approve of forging documents
19 and sending them by wire or mail?

20 THE WITNESS: They are ordered by wire.
21 They are delivered by wire. They are printed or
22 mailed or they are filed electronically by wire.

23 THE REFEREE: Read to me the precise
24 language that you are referring to that deals with
25 the fact that these documents can -- that the

1 documents should be forged and then transmitted the
2 way you just described.

3 THE WITNESS: They should be forged? I'm
4 sorry, I don't understand.

5 THE REFEREE: Well, what is it that you
6 think in this language is proof that these documents
7 are inappropriate.

8 THE WITNESS: On page 17?

9 MR. SCHWARZENBART: You're talking about
10 internal page 17 within --

11 THE WITNESS: Yes, yes, and that would be
12 Bates No. 62, top of the page, the instruction is
13 "Note endorsement." This process is to be used only
14 if your office has already received the note." Which
15 means that the foreclosure law firm has a document
16 purporting to be the original note in their position.

17 "If you have not received the note, follow
18 the process for requesting the note listed in the
19 missing note process section of this manual."

20 So what this says is if you have got what
21 you think is the original note in your possession,
22 follow this process.

23 Attorney, Step 1, enter step 0Z2. Endorsed
24 note needed -- remember, it's in -- it's unendorsed.
25 It's in the possession of the party seeking to

1 foreclose, whomever that might be.

2 THE REFEREE: What is the basis for
3 assuming it's unendorsed?

4 THE WITNESS: Because the language says
5 "endorsed note needed," so the basis for assuming
6 that the note needs to be endorsed is in the request
7 for action.

8 THE REFEREE: Couldn't that mean "send the
9 endorsed note"? Why do you assume the note is
10 unendorsed?

11 THE WITNESS: You know what, Mr. Winiarski,
12 I sense a really strong desire on your part to
13 disbelieve something that you have not even yet seen,
14 and this is a problem for me.

15 THE REFEREE: Okay. It can be your
16 problem, but at this point you will cease any further
17 statements to that regard. If you don't want me to
18 answer these questions -- first of all, this has
19 nothing to do with the charges in this case. Again,
20 you're relitigating. What you have been doing here
21 the entire day is trying to tell me why the courts
22 were wrong, and --

23 THE WITNESS: Why I was in good faith is
24 what I'm trying to establish.

25 THE REFEREE: And I'm telling you that -- I

1 told you at the beginning of this hearing, that
2 whether the court was right or wrong isn't the issue.
3 It's the allegations of the complaint.

4 You are trying to prove consistently during
5 this hearing that all these judges were wrong and you
6 were right.

7 THE WITNESS: No, I'm saying I was in good
8 faith, and I will continue, but all I was concerned
9 about is you were saying: Well, what makes you think
10 that these words mean that you are having them say.

11 THE REFEREE: Okay. We made reference to
12 the page, we will examine that if I see that it's
13 relevant, but so far you haven't convinced me that
14 that manual is recommending inappropriate, illegal
15 action. And if you want to show me more, go ahead.

16 THE WITNESS: Thank you so much.

17 So if there is a note in the possession of
18 the attorney's office, then they enter into the
19 dialogue box, according to this action step, a code
20 that says: Endorsed note needed, and then they go to
21 another screen. If a loan is in foreclosure, that
22 would be one type of endorsement being sought, or to
23 the bankruptcy screen if a loan is in bankruptcy.

24 It's just the process of ordering. Then
25 the Wells Fargo Home Mortgage default documents team

1 researches the needed endorsement.

2 And if a blank endorsement is in the file
3 for the original note, execute the endorsement and
4 send the original document to the attorney and
5 complete the next step. If needed endorsement is
6 located -- for a copy state, execute the endorsement,
7 send the original document to imaging, and complete
8 the Z-02 step.

9 So these are instructions of how you obtain
10 the evidence that we complain in the Rinaldi RICO
11 case was created for purposes of litigation.

12 MR. SCHWARZENBART: May I be heard on this,
13 your Honor? The witness is basically testifying to
14 her interpretation of this document and what it
15 means. And if it's going to be admitted or
16 considered for any purpose, I think it should be for
17 very limited purposes and certainly not for the truth
18 of the matters which Ms. Nora is asserting, because
19 there is no foundation that she has personal
20 knowledge as to how this document -- what this
21 document means in relation to how attorneys
22 representing Wells Fargo would interact with this
23 document and this system.

24 THE REFEREE: I agree.

25 THE WITNESS: It's her reading of this.

1 THE REFEREE: I agree, and I have already
2 stated my position in relation to this particular
3 document. I'm going to allow the document in only as
4 an offer of proof at this point in time. Let's
5 continue.

6 THE WITNESS: May I continue? The allonge
7 part on this same page, this is another step, that
8 also is problematic in terms of it is evidence that
9 allonges are being created, at made to order, on
10 demand, of the foreclosing law firms.

11 THE REFEREE: You made your record. Now,
12 let's move on.

13 THE WITNESS: There is also information in
14 here about creating assignments of mortgage.

15 THE REFEREE: Thank you.

16 THE WITNESS: Thank you.

17 THE REFEREE: Let's move on. Next
18 question.

19 BY MR. VERANT:

20 Q What is the basis of your motion to intervene?

21 A As I have stated before, we were in mediation within
22 the Seventh Circuit. It's a step that's offered to
23 all represented parties. There was an offer made in
24 the mediation that created what I thought was an
25 unresolvable conflict of interest. It gave me a

APPENDIX S

EXHIBIT 528

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ROGER PETER RINALDI, et al.
Plaintiffs,
v.

Adv. No. _____

WELLS FARGO HOME EQUITY ASSET-BACKED
SECURITIES 2005-2 TRUST (WFHET 2005-2)
c/o HSBC BANK USA, NATIONAL ASSOCIATION, as Trustee, et al.,
Defendants

IN RE the Bankruptcy of
ROGER PETER RINALDI and
DESA LILLY RINALDI,
Debtors

Case No. 15-22937

EXHIBIT LIST FOR
VERIFIED INTERPLEADER COMPLAINT PURSUANT TO FED. R. BANKR. P. 7022
AND COMPLAINT FOR DECLARATORY JUDGMENT TO DETERMINE
THE IDENTITY AND CAPACITY OF THE ENTITY OR ENTITIES ENTITLED TO
PAYMENTS OF ADEQUATE PROTECTION AND/OR TO THE BENEFIT OF THE
PROCEEDS OF SALE UNDER 11 U.S.C. SEC. 363(f); FOR DECLARATORY JUDGMENT
DETERMINING THE VALIDITY AND ENFORCEABILITY OF RECORDED MORTGAGE
AND FOR OTHER DECLARATORY AND INJUNCTIVE RELIEF

EXHIBIT A: *Wells Fargo Home Mortgage Foreclosure Attorneys Manual, Version 1, Revision 3*

EXHIBIT B: Request for Admission of Authenticity of the *Wells Fargo Home Mortgage Foreclosure Attorneys Manual, Version 1, Revision 3*

EXHIBIT C: Response to Request for Admission of Authenticity of the *Wells Fargo Home Mortgage Foreclosure Attorneys Manual, Version 1, Revision 3*

EXHIBIT D: January 29, 2015 Opinion of Judge Robert D. Drain, United States Bankruptcy Court for the Southern District of New York in *In re Cynthia Carrsow-Franklin*, Case No. 10-20010.

EXHIBIT E: Unrecorded Assignment of Mortgage purportedly executed on September 14, 2005

EXHIBIT F: First recorded Assignment of Mortgage created by Duncan C. Delhey, executed by John Herman Kennerty in the capacity of “Vice President of Loan Documentation” on March 1, 2010 and recorded by Gray & Associates, LLP with the Kenosha County Register of Deeds on April 5, 2010.

EXHIBIT G: Second recorded Assignment of Mortgage executed by Kate Johnson in the capacity of “Vice President of Loan Documentation,” created by Michael Dempsey, an employee of Wells Fargo Home Mortgage, recorded with the Kenosha County Register of Deeds on November 1, 2011.

EXHIBIT A

Wells Fargo Home Mortgage

Foreclosure Attorney Procedure Manual, Version 1

Status: Revision 3
 Origination Date: 11/09/2011
 Date Last Published: 02/24/2012

Purpose

Pre-Introduction

We ask that you share this manual within your office, including those who may not be directly involved, to educate your staff on the Foreclosure program

High Level Description of Process

Delinquent loans will be referred to the attorney once set up in the Foreclosure Workstation after the expiration of the demand. The attorney will be handling these loans from Referral to Sale/Confirmation/Redemption. The assigned Wells Fargo liaison will assist the attorney with any issues that arise outside of the normal process and review audit results.

Upon completion of the required documentation, the attorney will be authorized to file the Foreclosure Notice, keep Wells Fargo up to date, and address objections to the Foreclosure without loan level approval under established timeframes/guidelines. Any over-allowable or hourly fee requests not listed in the pre-approval form will require loan level approval from Wells Fargo.

If the attorney receives notice of an adversary, litigation issue, motion for sanctions, or any issue the attorney cannot complete in a time manner timely or any issue that will cause a delay in the timely execution of the sale, refer to the [Litigation](#) section of this manual. Wells Fargo will provide further instruction upon receipt of the communication from the attorney. The attorney will also be required to receive authorization for all over-allowable fees and costs as well as hourly billing requests for items not covered by the pre-approval form.

If the mortgagor contacts the attorney, and the attorney is unable to answer, the customer should be directed to the appropriate customer service number listed below. ***At no time should the Wells Fargo Liaison's direct phone line be provided to outside parties.***

Wells Fargo Home Mortgage Foreclosure Customer Service – 1-800-868-0043

America's Servicing Company Customer Service – 1-888-828-2377

Overview

The Foreclosure program has been designed to complement a Foreclosure attorney's current process, procedures and responsibilities through streamlining the necessary contact points with Wells Fargo and providing greater independence to the attorney's firm.

The program also leverages existing Wells Fargo automation. One of the key trigger points for automation is the addition of scheduled steps and the completion of steps (though the input of the actual date.) The expanded procedures of this section focus solely on the new expectations of the firms.

Each process section will have a breakdown of the overall flow, exact steps for exception processing, an outline of any reports that will be sent to the attorney, and specific compliance expectations and quality measurements. Please remember that the reports are to be a tool to assist in meeting all time frames, goals and compliance requirements.

Wells Fargo Home Equity / Wachovia Equity / Wells Fargo Financial

Your office may receive referrals for files that are for specialty portfolios. These foreclosures should be processed following your normal procedures. DO NOT contact your liaison for questions on these files. All questions and communication should be directed to the processor listed in VendorScape, Desktop, or on the FOR1 screen in MSP.

Desktop Referrals

As of June 6, 2011, all new referrals will be sent through Desktop instead of VendorScape. Desktop referrals can be identified by the K33 step, REFERRED IN DESKTOP on the FOR3 screen in MSP. You will still have loans that were previously referred through VendorScape that should continue being processed during this time.

Reports

You will receive several daily, weekly, and monthly reports to assist you in effectively monitoring and processing of your portfolio. The reports will be listed within the appropriate section of the manual. Effective February 15, 2012, for attorneys, the reports will be uploaded to your DTS mailbox. First, refer to your Transmission Confirmation Document. Then, access your Prod URL. Finally, key in your Universal ID/Logon ID. For liaisons, the reports will be in the **DS_FC_AttorneyRpts** folder on the shared drive. Reports are to be considered either "reference" or "action required." Reference reports are meant to give a status of the portfolio. Action required reports alert you of a task that needs to be performed. The following reports are meant to give you a general overview of the status of your portfolio.

Attorney – Trial Balance Report: Provide attorney with a weekly list of all pre-sale loans in his/her inventory (Reference).

Late Step Report: Provide attorney with a daily list of all foreclosure steps on FOR3 that are pending or past due. The attorney is to work this report to ensure the foreclosure is within investor timeline (Action Required).

Liaison – Late Step Report: Provide liaison with a list of all foreclosure steps that are pending or past due (Action Required).

Job Titles/Roles/Departments Responsible/Overview of General Duties

Foreclosure Referral Area Responsibilities (WFHM)

- QC Review of files from collections
- Set up of FC workstation and various screens in MSP including initial coding
- Send copy of Demand to attorney
- Send referral to attorney through VendorScape or Desktop
- Send HUD Occupancy Letter for TX and GA. In the event the HUD Occupancy Letter needs to be re-sent, the attorney will send out letters for all states at an agreed price.

Document Processing Area Responsibilities (WFHM)

- Order original documents for original document states
- Ensure copies of collateral documents are available for all other states
- Sending appropriate documentation through VendorScape or Desktop
- Ensure attorney has necessary documents to complete 1st Legal and Assignments
- Conventional Loans – work with the Investor to obtain signatures on Assignments
- Manage incoming mail from mortgagors, third parties, etc.
- If needed, ensure copies of Mortgage, Note, HUD-1, Title Policy, and Assignments are available via VendorScape or Desktop

Liaison Responsibilities (WFHM)

- Obtain Investor approval for over-allowable expenses
- Monitor workflow and performance of attorney
- Address any compliance findings
- Assist with escalated issues
- Attend monthly Attorney Call
- To determine beneficiary vesting information access Investor Matrix or RFC Matrix at <http://servicing.wfhm.homestead.wellsfargo.com/foreclosure/links.asp>.

Foreclosure Special Teams Responsibilities (WFHM)

- Prepare all reinstatement figures on exception loans where figures cannot be ordered through VendorScape or Desktop
- Prepare all payoff figures on exception loans where figures cannot be ordered through VendorScape or Desktop
- Provide monthly updates to Investor/Insurers (DIMA)
- Provide bidding Instructions **(except on FHA and FHLMC Designated loans-attorney responsibility)**
- Conventional Loans – provide Private Investors with sales results within 24 hours of sale – various forms utilized – (DIMA)
- FNMA/FHLMC – provide sales results through Midanet/HSSN. Ensure accuracy of all stops and coding and route completed foreclosures to REO/Claims
- Completion of 1099(a)
- Cash application and processing
- Document preparation and execution – provide attorney with any necessary documents and execute any necessary documents, such as affidavits, etc. (See [Executables](#))
- Review of report of loans in which 1st Legal is approaching or past timeframes and contact attorney for status. (See [First Legal Action](#))

Attorney Responsibilities

- Manage all loans during the foreclosure action to protect Wells Fargo's best interest and alert Wells Fargo's management of any potential risk.
- Ensure foreclosures are completed within investor and state guidelines.
- Management of a foreclosure file, either paper or electronic. Retained complete file for audit purposes for a period of 8 years or state requirement. Involves management of electronic file of all documents, which would require imaging, or a paper file. WFHM will notify the attorney when to destroy any audit file. No attorney will destroy a file without approval from WFHM default Compliance area.
- Review for any differences in the property and mailing addresses for the mortgagor and send all notices to both addresses if required by your state guidelines.
- Confirm the borrower's military status by review of the Department of Defense website. Notify Wells Fargo of all SCRA Soldiers & Sailors protected loans via the SMCRA@wellsfargo.com.
- Send Demand Letter at an agreed price. (See [Referrals/ Demand Letters](#))
- Determine 1st Legal deadline and ensure that the deadline is met as defined by the state-level matrix. **This is for FHA files only.** (See [First Legal Action](#))
- Review all documents, including Vendor Instructions, provided in VendorScape or Desktop.
- Obtain Title Report to ensure no title defects. (See [Title](#))
- Clear all title defects/ file claim. (See [Title Issues](#))
- Notify Wells Fargo of any liens that may affect our position or our ability to foreclose.
- Do not Foreclosure in the name of MERS.
- Monitor Suspense funds/make recommendations to apply and resolve. (See [Suspense](#))
- Work with the Tax area if we are notified of any delinquent taxes. (See [Delinquent Taxes \(Jeopardizing Lien\)](#))
- Management of loans being suspended, including loss mitigation, disaster area, etc. (See [Holds](#))
- Notify Wells Fargo of receipt of any bankruptcy notifications. (See [Bankruptcy](#))
- Order VA appraisal within 45 days of sale date. (See [VA Appraisal Ordering Process](#))

- Approve and submit (through iclear) all BPO and appraisal invoices that were ordered by Attorney. (See [BPO/Appraisal Ordering and Bidding](#))
- Send HUD Occupancy Letter on all states except TX and GA. In the event the HUD Occupancy Letter needs to be re-sent, the attorney will send out letters for all states at an agreed price.
- Review all requests for sale postponements. (See [Postponed Sales](#))
- Work with Loss Mitigation on all sale postponements. (See [Loss Mitigation](#))
- Review file to ensure ready for sale (no outstanding issues). (See [Pre-Sale Loan Review \(24 Hours Prior to Sale\)](#))
- Manage invalid sales. (See [Rescinding Sales Procedures](#))
- Management of expirations of ratification, redemption and confirmation dates. (See [Sales, Post-Sale and Closing File](#))
- Provide sales results by 4pm EST the same day the sale is held or, for attorneys on the West Coast whose sales are not held until the afternoon, provide sales results by 6pm EST or 9am EST the next business day. (See [Sales Results](#))
- Provide chronological events of foreclosure within 24 hours of request (this may be needed for losses associated with the loan)
- Review and respond to Default Accounts Payable regarding all iclear exceptions (attorney invoices)
- Close VendorScape or Desktop at completion of foreclosure and submit final invoice within 10 business days via iclear. (See, [Closing Your File](#))

Additional FHLMC Designated Counsel Responsibilities

- Manage the complete foreclosure process on any FHLMC designated foreclosure to ensure your office is in compliance with FHLMC requirements and guidelines.
- Order BPO through BPO Direct within 30 days of sale. (See [FHLMC Designated BPO Ordering Process](#))

Shared Responsibilities between Attorney & Wells Fargo Liaison

- Handle third party calls (non-customer).
- Research all customer issues.
- Review sales package, ensure coding is updated and all proper steps are taken, and close out MSP foreclosure workstation.
- Supply mortgagor / authorized 3rd party with reinstatement and payoff figures.

Timeframes to Complete the Process

Individual components of this document have their own time requirements.

Regulatory Requirements

Individual components are regulated by one or more regulatory agencies, such as FHA, FHLMC, FNMA, VA, HUD, and various state regulations.

Risk

- Being out of compliance with various federal and state regulations can lead to delays and/or Wells Fargo being forced to re-purchase loans.
- Being in violations of federal and state regulations can lead to possible sanctions and fines.

Management Tools

N/A

Definitions

Term/Acronym	Definition

AOM	Assignment of Mortgage
BPO	Broker's Price Opinion
DAP	Default accounts payable
DDF	Dynamic Date Form
DOD	Department of Defense
DOS	Default Operations Support
FC	Foreclosure
FHA	Federal Housing Administration
FHLMC	Federal Home Loan Mortgage Corporation (Freddie Mac)
FNMA	Federal National Mortgage Association (Fannie Mae)
HUD	Housing and Urban Development (U.S. Department of)
LIV	Loan Image Viewer
LM	Loss mitigation
LNA	Loss Note Affidavit
MERS	Mortgage Electronic Registration System
MHCT	Manufactured Home Conversion Team
MI	Mortgage Insurance; Michigan
Midanet	Mortgage Information Direct Access Network
MSJ	Motion for Summary Judgment
REO	Real Estate Owned
SOT	Substitution of Trustee
VA	Veterans Administration
WFHM	Wells Fargo Home Mortgage

References

1	FHLMC Guidelines
2	HUD Guidelines
3	Investor Guidelines
4	State regulatory Guidelines
5	VA Guidelines
6	WFHM Guidelines

Audit/Control/Business Quality Assurance

N/A

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Referrals/Demand Letters/State Required Letters/Conflict of Interest/Beneficiary Information/Dual Referral

Referrals

The attorney will receive their referrals via Desktop throughout the day. All available documents will be uploaded to Desktop within 24 hours of referral. The Demand Letter should be sent with the referral package; if not, it will be uploaded to Desktop **within 3 days from referral**.

Conflict of Interest

If your office determines that there is a conflict of interest due to your office already handling another lien on the property, the Conflict of Interest issue needs to be raised.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Select "FC Conflict of Interest"

Dual Referrals

In Desktop, if you are a FHLMC Designated counsel and are unable to represent WFHM due to a conflict of interest, the Freddie Mac Dual Referral Issue needs to be raised.

STEP	ACTION
1	Go to the Tool Menu
2	Select Issues
3	Select Add Issue
4	For the Issue Type, select "FC Freddie Mac Dual Referral"
5	Enter the projected end date and provide a detailed description of the issue

Beneficiary/Vesting Information Needed

In Desktop, if your office is in need of the entity to file the foreclosure action in:

STEP	ACTION
1	Go to the Tool Menu
2	Select Issues
3	Select Add Issue
4	For the Issue Type, select "FC Foreclose in the name of"
5	Enter the projected end date and provide a description as to what information is needed

If your office is in need of the entity to 'vest the title in the name of', perform the following:

STEP	ACTION
1	Go to the Tool Menu
2	Select Issues
3	Select Add Issue
4	For the Issue Type, select "FC Vest in the name of"
5	Enter the projected end date and provide a description as to what information is needed

Judicial Foreclosure Needed

If your office determines that the foreclosure needs to proceed as a judicial foreclosure in a state that is typically Non-Judicial, the judicial steps will need to be added to the foreclosure template.

Attorney:

- **Desktop:** The Judicial Action Needed Process needs to be launched.

STEP	ACTION
1	Go to the File Transfer Form on the Tool Menu
2	Launch the FC_Judicial_Action_Needed_Direct_Source or the FC_Judicial_Action_Needed_InHouse_Referred or the FC_Judicial_Action_Needed_InHouse_Non_Referred process in Desktop Launching this process will add the needed judicial steps to the template as well as the 541 JUDICIAL FCL REQUESTED step to FOR3 in MSP.

- **VendorScape:**

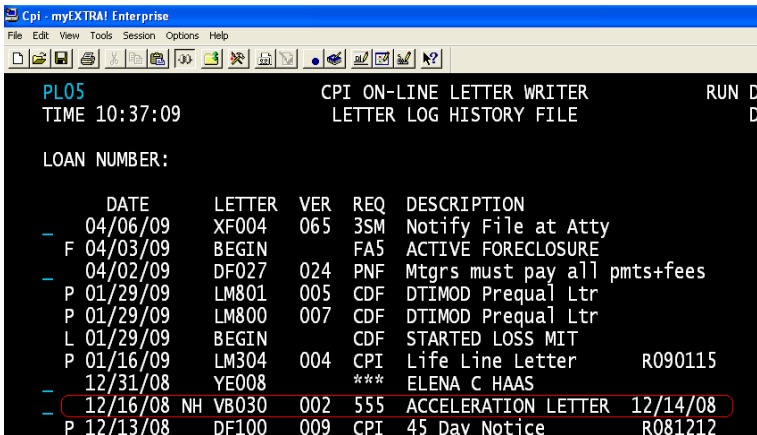
STEP	ACTION
1	Send a message to your liaison advising that a Judicial foreclosure is needed.
2	Add the following Judicial steps to FOR3 in MSP as well as the 541 JUDICIAL FCL REQUESTED. • T05-SVC ON DFNS COMPLETED • T17-ATTY SCHD SUMMARY JUDGM (Dependent on State) • T14-JUDGM ENTERED/GRANTED

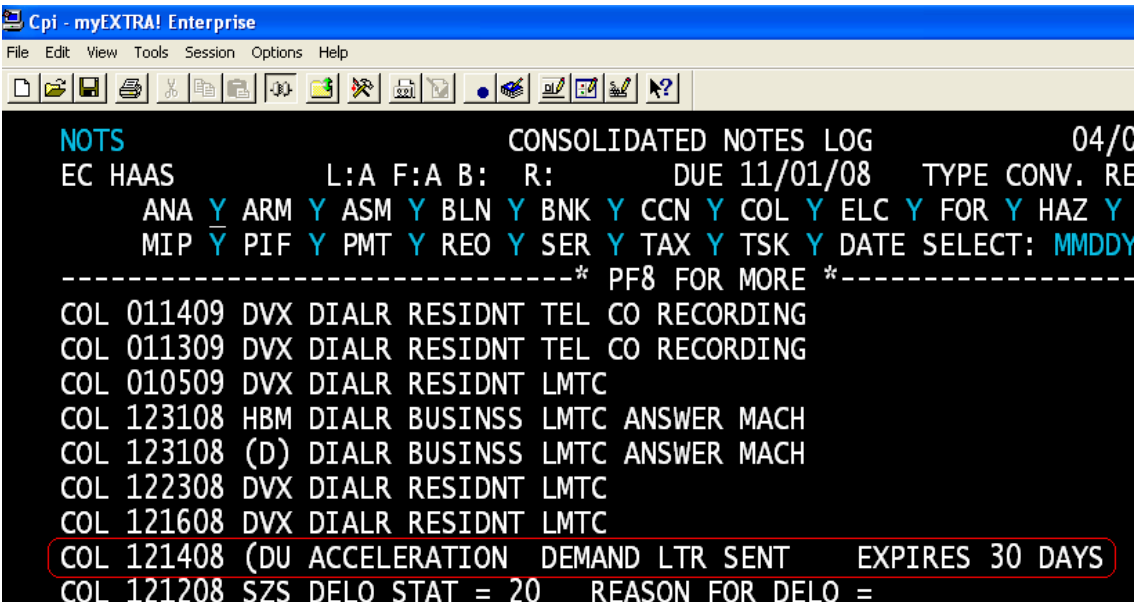
Liaison:

STEP	ACTION
1	Confirm that the necessary steps have been added to the template when advised of the Judicial foreclosure.
2	Add and complete the 542 JUDICIAL FCL APPROVED step to FOR3 in MSP.

Demand/Acceleration Letters

- **Attorney:** Once a referral is received, verify that you have received the most recent Demand Letter. Please review all Demand Letters loaded to VendorScape or Desktop prior to completing these steps.

STEP	ACTION
1	Locate the date the last Demand Letter was sent on the loan by reviewing the PL05 Letter history or the collection notes (DLQ1 or NOTS).
	 In this example, the Demand Letter (Acceleration Letter) was sent 12/14/08 and the information was updated to MSP on 12/16/08.

	 NOTS CONSOLIDATED NOTES LOG 04/0 EC HAAS L:A F:A B: R: DUE 11/01/08 TYPE CONV. RE ANA Y ARM Y ASM Y BLN Y BNK Y CCN Y COL Y ELC Y FOR Y HAZ Y MIP Y PIF Y PMT Y REO Y SER Y TAX Y TSK Y DATE SELECT: MMDDYY -----* PF8 FOR MORE *----- COL 011409 DVX DIALR RESIDNT TEL CO RECORDING COL 011309 DVX DIALR RESIDNT TEL CO RECORDING COL 010509 DVX DIALR RESIDNT LMTC COL 123108 HBM DIALR BUSINSS LMTC ANSWER MACH COL 123108 (D) DIALR BUSINSS LMTC ANSWER MACH COL 122308 DVX DIALR RESIDNT LMTC COL 121608 DVX DIALR RESIDNT LMTC COL 121408 (DU ACCELERATION DEMAND LTR SENT EXPIRES 30 DAYS COL 121208 SZS DELO STAT = 20 REASON FOR DELO = In this example, the Demand Letter (Acceleration Letter) was sent 12/14/08 and the information was updated to MSP on 12/16/08. P 01/26/09 LC180 012 IAB Mortgr Requested Cancel W/O 01/20/09 NH VB033 001 555 PA ACT 6 & 91 LETTER 01/18/09 01/20/09 NH BI030 001 555 BORR INF PACKET-426H 01/18/09 In the state of Pennsylvania, the Demand Letter shows as a PA ACT Letter instead of an Acceleration Letter. 01/06/09 NH VB032 001 555 NJ ACCEL LETTER 01/04/09 12/31/08 YE008 *** BERNARD COSTELLO In the state of New Jersey, the Demand Letter shows as a NJ Accel Letter instead of an Acceleration Letter.
2	If you have received the most recent copy of the Demand Letter, proceed to Step 4.
3	If you have not received the most recent copy of the Demand Letter, enter log code FCDEMD (ATTORNEY REQUEST COPY OF DEMAND LETTER) on the MSP FOR2 screen or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field. Raise the FC Copy of Demand/State Req letter request issue in Desktop. <i>If the loan is a Wells Fargo Financial or Wells Fargo Home Equity loan, the FC Copy of Demand/State Req letter request issue still needs to be raised in Desktop.</i>
4	Once the most recent Demand Letter is received, verify that the Demand is valid or invalid. The following process needs to be completed within 5 business days from referral.
5	If working within Desktop, proceed to Step 6; If working within VendorScape, proceed to Step 10
6	For Desktop referrals, select the FC Demand Review process from the Navigation Tree. Complete the dynamic date form (DDF) attached to the Review of Demand Letter Process.
7	Review of Demand Letter Complete – open DDF
8	“Demand Letter Valid?” - Select pick list and choose answer of “Yes” if the demand is valid. - If “Yes” is chosen, select “Submit and Close” at the bottom of the DDF. DO NOT COMPLETE ANY OTHER FIELDS IN THE DDF. - If “No” is selected then the second question is required to be completed.
9	Who is Sending the Re-demand?”

	- Complete the second question on the DDF by selecting "Attorney" or "Servicer." DO NOT MAKE A SELECTION HERE IF YOU ANSWERED THE PREVIOUS QUESTION WITH "YES". - Select "Attorney" if you, the attorney firm, will be sending the new demand letter. By selecting this task the New Demand Letter Sent task and Copy of New Demand Uploaded to Desktop task will auto launch to complete by the attorney. - There is a DDF associated with the New Demand Letter Sent task to be completed by the attorney. - The DDF has two fields. Complete when the new demand is sent. New Demand Letter Expires – date field for when demand will expire. Demand Letter Hold – check box to signify the hold was placed on the loan. - Select "Servicer" if you are unable to send a new demand. By selecting "Servicer," the Notified Servicer to send New Demand Letter task will auto launch for Wells Fargo to complete. Additional Details - to provide reason demand is not valid. Proceed to Step 11
10	For VendorScope referrals, if the Demand Letter is valid, enter log code FCRVDV (REVIEWED DEMAND IS VALID) on FOR2 in MSP. For Desktop Referrals, this automatically will update the log code in MSP.
11	If Demand is not valid due to mailing address not included on Demand Letter sent (only for states requiring Letters be sent to the mailing address): - If the loan is a Wells Fargo Financial or Wells Fargo Home Equity loan, contact your foreclosure liaison. - If the loan is not a Wells Fargo Financial or Wells Fargo Home Equity loan, do the following: - Verify the last date the mailing address changed on the loan (review collection notes (DLQ1 or NOTS)) - If mailing address changed after date of last Demand, proceed with foreclosure action. - Enter log code FCRVDV (REVIEWED DEMAND IS VALID) on the MSP FOR2 screen. In Desktop, the log code automatically will be added after completing the DDF attached to the Demand Letter Valid step. - If mailing address changed before date of last Demand, raise the FC Copy of Demand/State Req letter request issue in Desktop to obtain the missing Demand Letter. Enter log code FCDEMD (ATTORNEY REQUEST COPY OF DEMAND LETTER) on FOR2 or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
12	If the Demand is not valid due to any other reason (including but not limited to missing borrower, incorrect address, etc.), perform the following: - If the loan is a Wells Fargo Financial or Wells Fargo Home Equity loan, contact the processor listed on FOR1 in MSP. - If the loan is not a Wells Fargo Financial or Wells Fargo Home Equity loan, do the following: - Enter log code FCRVDN (REVIEWED DEMAND NOT VALID) on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field. - Provide the specific reason that the demand letter was deemed invalid. Raise the FC Copy of Demand/State Req letter request issue in Desktop to obtain the missing Demand Letter.

13	If you receive a response advising your office to re-Demand, complete the following steps:
14	Your office can re-Demand at a charge not exceeding \$35. The new demand must be sent within 48 business hours of determining that the demand is not valid.
15	Insert step D76, NEW DEMAND SENT and complete the actual date.
16	Insert step D77, NEW DEMAND LETTER EXPIRES, and leave the actual date blank. In Desktop, these steps automatically will be added after completing the fields in the DDF attached to the Demand Letter Valid step.
17	Enter log code FCRVDN (REVIEWED DEMAND NOT VALID) on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
18	Provide the specific reason that the demand letter was deemed invalid.
19	Once the Demand Letter expires, complete the D77 step with the expiration date of the Demand Letter. A copy of the Demand Letter your office sent out will need to be sent to Wells Fargo. You can submit a copy electronically through the 8778160144@enterprisefaxout.wellsfargo.com email address. Emails to this mailbox must be in the following format: Subject Line: Demand Images to FileNet- 07201 Please save each letter separately in PDF or WORD format If multiple letters go out due to multiple parties/separate mailing addresses, all of the images for that one loan CAN be imaged together in one document. Please name each image by Client & Loan Number (i.e. 708-XXXXXXXXXX)

Reports

Attorney – Referrals: Daily report with all referrals sent to your office the prior day. (Reference)

Attorney – Demand Not Valid: Provides a weekly list of loans where your office determined that the demand letter is not valid or where the referral has been active for more than five days and your office has not put the log code(s) on the loan. The loan will remain on this report until log code FCRVDV is entered on FOR2. (Action Required)

Liaison – Demand Not Valid: Provides a weekly list of loans where the referral has been active for more than ten days and the FCRVDV log code is not entered on the loan or the first legal action has been filed and the FCRVDV log code is not entered. (Action Required)

State Required Letters

****Please Note**** This section only needs to be completed if the property is in a state that currently requires a specific state required notice outside of or in addition to the Demand/Acceleration Letter.

STEP	ACTION
1	Attorney: Once a referral is received, verify that you have received the most recent State Required Letters. Please review all Demand and State Required Letters loaded to VendorScape or Desktop prior to completing these steps
2	Locate the date the last State Required Letter was sent on the loan by reviewing the collection notes (DLQ1 or NOTS). If you have received the most recent copy of the State Required Letter, proceed to step 3.

	- If you have not received the most recent copy of the State Required Letter, enter log code FCSTLR (ATTORNEY REQUEST COPY OF STATE REQUIRED LETTER) on FOR2 or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field. - Raise the FC Copy of Demand/State Req letter request issue in Desktop. - If the loan is a Wells Fargo Financial or Wells Fargo Home Equity loan, the FC Copy of Demand/State Req letter request issue still needs to be raised in Desktop.
3	Attorney: Once most recent State Required Letter is received, verify that the State Required Letter is valid. The following process needs to be completed within 5 business days from referral.
4	If the State Required Letter is valid, enter log code FCRVSV (REVIEWED STATE REQUIRED LETTER IS VALID) on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
5	If the State Required Letter is not valid, follow the appropriate process below depending on reason State Required Letter is not valid. If State Required Letter is not valid due to payments accepted since last State Required Letter was sent: Check to see the investor on the loan: - If the loan is a Client 106 Wells Fargo Financial or Wells Fargo Home Equity loan, contact your foreclosure liaison. - If the loan is not a Client 106 Wells Fargo Financial or Wells Fargo Home Equity loan, do the following: - Your office can re-send the State Required Letter at a charge not exceeding \$35. *Please note – if an alternate re-send procedure has been established with your firm, it will supersede this procedure. - Insert step T76, NEW STATE REQD LTR SENT and complete the actual date. - Insert step T77, STATE REQD LTR EXPIRES, and leave the actual date blank. **Please Note** For VendorScape Referrals: Under Task, choose “Add” then “Production Task – New State Required Letter.” When adding New State Required Letter through VendorScape the T76 step– New State Reqd Ltr Sent and T77 step– State Reqd Ltr Expires automatically will be placed into MSP. The T77 step will map over as an open step; do not fill the date in until the State Required Letter has expired. For Desktop referrals, go to the File Transfer Form on the Tool Menu, add the FC_State_Required_Letter_Direct Source, or FC_State_Required_Letter_InHouse_Referred, or FC_State_Required_Letter_InHouse_Non_Referred process, and complete the DDF. This automatically will insert and complete the steps for you

State Specific Desktop Holds for State Required Letters

California: If it is determined that the file is in need of a declaration to comply with the Senate Bill 1137 and the client has not provided the document either via Document Management or to the trustee directly (via mail),

STEP	ACTION
1	Select Holds from the Tool Menu
2	Select FC CA Senate Bill 1137 as the Reason
3	Enter the expected end date and provide hold details

Once this document is received, the hold should be ended.

Iowa: If the court has granted the 180-day borrower-imposed stay (Judge can grant this to the borrower upon request and judge will rule on this),

STEP	ACTION
1	Select Holds from the Tool Menu
2	Select "FC Demand for Delay (Iowa)" as the hold Reason
3	Enter the expected end date and provide hold details

Illinois: If Illinois state law (Illinois Grace Period) is preventing the foreclosure from proceeding:

STEP	ACTION
1	Holds from the Tool Menu
2	Select "FC Illinois State Hold" as the hold Reason
3	Enter the expected end date and provide hold details.

New Jersey: If New Jersey state law is preventing the foreclosure from proceeding

STEP	ACTION
1	Select Holds from the Tool Menu
2	Select "FC New Jersey State Hold" as the hold Reason
3	Enter the expected end date and provide hold details

Indiana: If Indiana state law is preventing the foreclosure from proceeding

STEP	ACTION
1	Select Holds from the Tool Menu
2	Select "FC Indiana State Hold" as the hold Reason
3	Enter the expected end date and provide hold details

Michigan: If Michigan state law is preventing the foreclosure from proceeding,

STEP	ACTION
1	Select Holds from the Tool Menu
2	Select "FC Michigan State Hold" as the hold Reason

3	Enter the expected end date and provide hold details

Soldier and Sailor Civil Relief Act Procedures

Attorney: Your office is required to confirm the borrower's military status for every loan referred/transferred to your office, by checking the DOD website, a minimum of **two** times throughout the foreclosure process:

- Immediately (within 24 hours) upon receipt of the foreclosure referral/ file transfer to your office
- 24 business hours prior to the day of sale

Please see Pre-Sale Loan Review or procedures on SCRA review process

New Referral Needed

Attorney: If your office determines that a new foreclosure referral is needed, please contact your liaison directly through VendorScape and provide a detailed explanation for why the new referral is needed. For Desktop referrals, raise the Restart Necessary Issue type.

STEP	ACTION
1	Go to the tool menu
2	Select Issues
3	Select Add Issue.
4	Select the "FC Restart Necessary" issue
5	Enter the projected end date and provide a reason as to why a new referral is needed.

Liaison: Determine if a new foreclosure referral is necessary and needed:

1	Ensure the attorney's side and the servicer side of VendorScape or Desktop are closed down
2	Email Foreclosure Removals at fcremovals@wellsfargo.com
3	Contact referrals at referral.request@wellsfargo.com , which will alert the Default Reporting department to send a new referral

****Please note** A new referral should only be needed if counsel is unable to utilize the existing referral to proceed with the foreclosure action. If a restart is necessary, please refer to [Foreclosure Restarts](#) for instructions on how to proceed**

Default Document Process

Initial Document Process

The Default Document Department proactively orders all available original loan documents for loans that are more than 60 days delinquent. Documents include the original note, recorded mortgage, title policy, and recorded and unrecorded assignments. Documents are sent to imaging so that at the time of referral they can be uploaded via VendorScape or Desktop to the Foreclosure Attorney.

If the note has been imaged on a **COPY STATE**, LIV automatically will upload the document to VendorScape or Desktop and complete step N82, NOTE SENT TO ATTY, on FOR3 in MSP.

- For an **ORIGINAL DOCUMENT STATE**, the note will be imaged onto Loan Image Viewer.
- Once the loan is referred to foreclosure, Default Docs will ship the original note to the attorney's office and complete step N82, NOTE SENT TO ATTY.

If the recorded mortgage has been imaged, LIV automatically upload the document to VendorScape or Desktop and complete step K56, RECORDED MTG/DOT TO ATTY, on FOR3 in MSP.

If the title policy has been imaged, LIV automatically will upload the document to VendorScape or Desktop and complete step K68, TITLE POLICY SENT TO ATTY, on FOR3 in MSP.

PLEASE NOTE THAT DOCUMENT UPLOAD CAN OCCUR UP TO THREE (3) DAYS FROM THE REFERRAL.

Missing Note Process

NOTE NOT RECEIVED

STEP	ACTION
1	Attorney: If after the third business day of the referral date you have not received the note, add log code NOTRRP in VendorScape or add the Note Not Received in Referral Package Issue in Desktop. This can be done by selecting Issues from the Tool Menu and selecting Add Issue. This will add log code NOTRRP (NOTE NOT RECEIVED IN REFERRAL PACKAGE) to FOR2 in MSP, open and complete step Y84, ATTY REQ MISSING NOTE, and open step K64, NOTE RESEARCH REQUIRED, on FOR3 in MSP
2	WFHM Default Docs Team: Research missing note: - If note is found: complete the K64 step with the actual date the note was provided/sent to the Attorney. If the state does not require the original note, the document will be uploaded to LIV. Otherwise, send the note via mail and track for delivery. - If note is not found: complete the K64 step, delete the N82 step, and add step N83, LOST NOTE AFFIDAVIT NEEDED. Only the Default Doc Team should be adding the N83 step to FOR3.
3	Attorney: Once the N83 step is placed on the loan, this will authorize your office to create and forward a lost note affidavit as described in the Lost Note Affidavits (LNA) process in this manual.
4	WFHM Default Docs Team: Once you receive, execute, and return the LNA to the Attorney, close the N83 step.

NOTE INVALID OR ILLEGIBLE

1	Attorney: If after the third business day of the referral date the note you received is invalid or illegible, add log code NOTRIN in VendorScape or add the Invalid or Illegible Note Received Issue in Desktop and describe the issue with the note. This can be done in Desktop by selecting Issues from the Tool Menu and selecting Add Issue. This will add log code NOTRIN (NOTE RECVD INVALID OR NOT LEGIBLE) to FOR2 in MSP, open and complete step Y84, ATTY REQ MISSING NOTE, and open step K64, NOTE RESEARCH REQUIRED, on FOR3 in MSP.
2	WFHM Default Docs Team: Research missing note - If note is found: complete the K64 step with the actual date the note was provided/sent to the Attorney. If the state does not require the original note, the document will be uploaded to LIV. Otherwise, send the note via mail and track for delivery. - If note is not found: complete the K64 step, delete the N82 step, and add step N83, LOST NOTE AFFIDAVIT NEEDED. Only the Default Doc Team should be adding the N83 step to FOR3.

3	Attorney: Once the N83 step is placed on the loan, this will authorize your office to create and forward a lost note affidavit as described in the Lost Note Affidavits process in this manual.
4	WFHM Default Docs Team: Once you receive, execute, and return the LNA to the attorney, close the N83 step.

Log codes will be rejected if added prior to three business days past the Referral Date and your request for documents will not upload.

Lost Note Affidavits

****Please Note**** The below process is for lost note affidavits and Lost Note Bonds in Colorado. This is not for allonges, or for Note endorsements. If your office needs an allonge or note endorsement, please follow the procedures listed in the Allonge/Note Endorsement section of this manual.

STEP	ACTION
1	Attorney: Send lost note affidavits to Wells Fargo Default Docs area via email address defaultallongemailbox@wellsfargo.com . Enter log code FCLNSG (LOST NOTE AFFIDAVIT SENT TO WF) in MSP or Desktop to notify them that your office has sent the lost note affidavit for execution. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
2	WFHM Default Docs Team: Once request is received in mailbox, enter log code FCLNAV (LOST NOTE AFFIDAVIT RECEIVED FROM ATTY) in MSP. If the LNA needs the signature of an officer, enter log code FCLNAI (LOST NOTE AFFIDAVIT SENT FOR INTERNAL SIGNATURE(S)) in MSP to show the status of the LNA. The turnaround time for this process is five (5) business day.
3	WFHM Default Docs Team: Once LNA has been completed, enter log code FCLNAD (LOST NOTE AFFIDAVIT COMPLETED SENT TO ATTY) in MSP, and overnight the affidavit to the attorney. Enter the actual date for the N83 step as the date the LNA was sent to the attorney.
4	Attorney: Your office is responsible for following up on the LNA, by reviewing FOR2 for the log code FCLNAD . If you have not received the LNA after 5 business days, send a second request.

The following Log Codes should be used for the LNA process:

Log Codes	Comments
FCLNSG	LOST NOTE AFFIDAVIT SENT TO WF (ATTY)
FCLNAV	LOST NOTE AFFIDAVIT RECEIVED FROM ATTY (WFHM)
FCLNAI	LOST NOTE AFFIDAVIT SENT FOR INTERNAL SIGNATURE(S) (WFHM)
FCLNAD	LOST NOTE AFFIDAVIT COMPLETED SENT TO ATTY (WFHM)

Reports:

Attorney – Lost Note: Daily report of all loans where the N83 scheduled date is not null and the N83 actual date is null. Alerts attorney of outstanding Lost Note Affidavit requests (Action Required)

Note Endorsement

****Please Note**** This process is only to be used if your office has already received the note. If you have not received the note, follow process for requesting the note listed in the [Missing Note Process](#) section of this manual.

STEP	ACTION
1	Attorney: Enter step Z02 (Endorsed Note Needed) to the FOR3 screen (if a loan is in foreclosure) or the BNK3 screen (if a loan is in Bankruptcy).
2	WFHM Default Docs Team: Research needed endorsement. - If the blank endorsement is in the file for an original state, execute the endorsement, send the original document to the attorney, and complete the Z02 step. - If needed endorsement is located for a copy state, execute the endorsement, send the original document to imaging, and complete the Z02 step.

Allonge

****Please Note**** An allonge cannot be processed unless default docs or the attorney is in possession of the original note.

STEP	ACTION
1	Attorney: If an allonge is still needed after a note has been endorsed, forward the allonge attachment to Wells Fargo Default Docs area via email address Defaultallongemailbox@wellsfargo.com and add step Y44, ATTORNEY REQUESTED ALLONGE, to FOR3.
2	WFHM Default Docs Team: Once allonge attachment is received, enter log code FCALGR (ALLONGE REQUEST RECEIVED). If property is located in a copy state, determine if original note can be ordered to complete the endorsement on the note. If the original note can be ordered, enter log code of FCODAL (FILE ORDERED FOR ALLONGE) and order the file from the custodian. There is a 14-business-day turnaround time for files to be ordered and received from the custodian.
3	WFHM Default Docs Team: If file was ordered and received, review FOR2 notes to determine what entities the attorney needs the note endorsement to reflect. - Type the appropriate endorsement directly to the note, and make a copy of the endorsed note to be faxed to the WFHM imaging department. - Enter log code FCNRCS (NOTE REQUEST COMPLETED/SENT TO ATTORNEY) and mail the attorney the original, endorsed note. - Complete the Y44 step with the actual date the note was returned to attorney.
4	WFHM Default Docs Team: If property is located in an original doc state and attorney has the original note, review the allonge attachment to determine if we have signing authority to execute internally. - If WFHM does have signing authority, enter log code FCALGI (ALLONGE SENT FOR INTERNAL SIGNATURE) - If WFHM does not have signing authority, enter log code FCALGE (ALLONGE SENT OUT FOR EXECUTION) and mail document for 3rd party signature. - After allonge has been executed, enter log code FCALGA (ALLONGE

	COMPLETED/RETURNED TO ATTORNEY). Complete the Y44 actual date with the date allonge was returned to attorney.

The following log codes will be used for the allonge process:

Log Codes	Comments
FCALGR	ALLONGE REQUEST RECEIVED
FCALGI	ALLONGE SENT FOR INTERNAL SIGNATURE
FCALGE	ALLONGE SENT OUT FOR EXECUTION
FCODAL	FILE ORDERED FOR ALLONGE
FCALGA	ALLONGE COMPLETED/RETURNED TO ATTORNEY
FCNRCS	NOTE REQUEST COMPLETED/SENT TO ATTORNEY

Missing Recorded Mortgage Process

RECORDED MORTGAGE NOT RECEIVED

STEP	ACTION
1	Attorney: If after the third business day of the referral date you have not received the recorded mortgage, add log code RMNRRP in VendorScape or add the Recorded Mortgage/Deed not received in Referral Package issue in Desktop. This can be done by selecting Issues from the Tool Menu and selecting Add Issue. This will add log code RMNRRP (RECORDED MORTGAGE NOT RECEIVED IN REFERRAL PACKAGE) to FOR2 in MSP, open and complete step Y86, ATTY REQ MISSING REC MORT, and open step K63 (RECORDED MTG RSCH REQ'D) on the MSP FOR3 screen.
2	WFHM Default Docs Team: Research missing recorded mortgage. - If the recorded mortgage is found, complete the K63 step with the actual date the mortgage was provided/sent to the attorney. Load the mortgage onto LIV. For IL, send the original recorded mortgage to the attorney. - If recorded mortgage is not found: complete the K63 step, and add step K54, ATTY NDS TO OBTAIN DOT/MTG.
3	Attorney: Once the K54 step is placed on the loan, this will authorize your office to obtain the recorded mortgage from the county clerk's office. Once you have obtained the recorded mortgage, enter the actual date for the K54 step.

RECORDED MORTGAGE INVALID OR ILLEGIBLE

STEP	ACTION
1	Attorney: If after the third business day of the referral date the recorded mortgage you received is invalid or illegible, add log code DEEINV in VendorScape, or add the Invalid, or Illegible Recorded Mortgage/Deed Received issue in Desktop. This can be done by selecting Issues from the Tool Menu and selecting Add Issue. This will add log code DEEINV (RECORDED DEED RECD INVALID OR NOT LEGIBLE) to FOR2 in MSP, open and complete step Y86, ATTY REQ MISSING REC MORT, and open step K63 (RECORDED MTG RSCH REQ'D) on the FOR3 screen in MSP.
2	WFHM Default Docs Team: Research missing recorded mortgage. If recorded mortgage is found, complete the K63 step with the actual date the

	mortgage was provided/sent to the attorney. Load the mortgage onto LIV. For IL, send the original recorded mortgage to the attorney. If recorded mortgage is not found: complete the K63 step, and add step K54, ATTY NDS TO OBTAIN DOT/MTG.
3	Attorney: Once the K54 step is placed on the loan, this will authorize your office to obtain the recorded mortgage from the county clerk's office. Once you have obtained the recorded mortgage, enter the actual date for the K54 step.

Reports:

Attorney – Attorney to Obtain Mortgage: Daily report of all loans where the K54 scheduled date is not null and the K54 actual date is null. Alerts the attorney to obtain recorded mortgage from county clerk's office (Action Required).

*****If the recorded mortgage was obtained by your office prior to the K54 step being added, you will need to notate VendorScape or Desktop stating that the mortgage has been received/obtained and you will need to complete the K54 actual date to ensure loan falls off of the report*****

Missing Title Policy Process

****Please Note**** The below process is not for title issues. If your office is handling a title issue, please follow the procedures listed in the [Title](#) section of this manual.

TITLE POLICY NOT RECEIVED

STEP	ACTION
1	Attorney: If after the fifth business day of the referral date you have not received the title policy, add log code TTLNRP in VendorScape, or add the Title Not Received in Referral Package issue in Desktop. This can be done by selecting Issues from the Tool Menu and selecting Add Issue. This will add log code TTLNRP (TITLE WAS NOT RECEIVED IN REFERRAL PACKAGE) to FOR2 in MSP, open and complete step Y85, ATTY REQ MISSING TITLE POL, and open step K66, TITLE POLICY RESEARCH RQD, on FOR3 in MSP
2	WFHM Default Docs Team: Research missing title policy as follows: - If title policy is found, complete the K66 step with the actual date the title policy was provided/sent to the attorney. Load the title policy onto LIV. - If title policy is not found, complete the K66 step, and add step K67, ATTY NEEDS TO OBTAIN TITLE.
3	Attorney: Once the K67 step is placed on the loan, this will authorize your office to obtain the title policy directly from the title company. Once you have obtained the title policy, enter the actual date for the K67 step.

TITLE POLICY INVALID OR ILLEGIBLE

STEP	ACTION
1	Attorney: If after the fifth business day of the referral date the title policy you received is invalid or illegible, add log code TTLBAD in VendorScape or add the Invalid or Illegible Title Received issue in Desktop. This can be done by selecting Issues from the Tool Menu and

	selecting Add Issue. This will add log code TTLBAD (TITLE RECEIVED IS INVALID OR NOT LEGIBLE) to FOR2 in MSP, open and complete step Y85, ATTY REQ MISSING TITLE POL, and open step K66, TITLE POLICY RESEARCH RQD, on FOR3 in MSP
2	WFHM Default Docs Team: Research missing title policy as follows: - If title policy is found, complete the K66 step with the actual date the title policy was provided/sent to the attorney. Load the title policy onto LIV. - If title policy is not found, complete the K66 step, and add step K67, ATTY NEEDS TO OBTAIN TITLE.
3	Attorney: Once the K67 step is placed on the loan, this will authorize your office to obtain the title policy directly from the title company. Once you have obtained the title policy, enter the actual date for the K67 step.

Reports:

Attorney – Attorney to Obtain Title Policy: Daily report of all loans where the K67 scheduled date is not null and the K67 actual date is null. This report alerts the attorney to obtain title policy from the title company. (Action Required).

*****If the Title Policy was obtained by your office, you will need to notate VendorScope or Desktop stating that the title policy has been received/obtained and you will need to complete the K67 actual date to ensure loan falls off of the report*****

Assignments

Please be advised that your office should NOT be foreclosing in the name of MERS.

- Effective March 1, 2011, Wells Fargo Post Closing Final Documents team will be drafting assignments for all delinquent MERS and Private Investor Loans. This will include any intervening assignments as well.
- Attorney:** As of 5/27/11, you are to no longer to prepare an Assignment of Mortgage (AOM) (regardless of the referral date)

Follow these procedures:

STEP	ACTION
1	After pulling title and it is determined an assignment is needed, log on to MSP and review MAS1/USR3, "FD AOM VALDIDTN" field (press F8 twice) and review the status of the assignment.
2	If the field displays "0" "Assignment Not Needed" WFHM has already reviewed the chain of title and an assignment is not needed. If your office determines that an assignment is needed, please contact your liaison with the details as to why an assignment is still needed.
3	If the field displays "1" "Assignment Process Started" or "2" "Assignment Sent to County for Recording" - Determine if you may proceed with foreclosure without the recorded assignment - If you determine you are unable to proceed, email FDAssignmentDesk@wellsfargo.com

	- o Escalation in subject line of email - o Loan # - o Date the Assignment is needed by - o Assignor and Assignee - o If the assignment is required to be recorded prior to filing first legal, provide physical mailing address (Street Address, no P.O . boxes) and executed assignment will be sent via overnight mail - o The specific department or contact person the assignment should be sent to • Add event Assignment Issue/Problem in VendorScape or go to the File Transfer Form on the Tool Menu and launch the FC_DS_Assignment_Needed or FC_IHR_Assignment_Needed or FC_IHNR_Assignment_Needed process in Desktop and complete the DDF. Include the assignor and assignee information for the needed assignment. • Once you receive the executed assignment, record the assignment with the county. • Retrieve the recorded assignment and complete the task Assignment Problem Corrected in VendorScape or complete the Executed Assignment Received by Attorney event in Desktop with the date the assignment was recorded. • Proceed with the foreclosure process. Adhere to the document handling process as outlined in the Foreclosure Manual in regards to faxing a copy of the recorded assignment to Wells Fargo (see Documents Obtained by your Office) IMPORTANT: Document Handling Procedure- <u>If you currently are in possession of the original collateral file and related documents:</u> (1) Complete Appendix T-Assignment Cover Page indicating that you are in possession of the Original AOM Document and will maintain it with the other original documents in the Collateral file (2) Submit a copy of the recorded AOM document along with completed, signed Appendix T-Assignment Cover Page through Desktop (3) File and maintain the AOM with the other collateral documents (4) Return Original AOM along with other Original collateral documents to WFHM at the completion, suspension or removal of the foreclosure action <u>If you are NOT in possession of the original collateral file and related documents</u> (1) Retain a copy of the recorded AOM and (2) Return original, recorded AOM to the following address: Wells Fargo Home Mortgage Mac X9999-018 PO Box 1629 Minneapolis, MN 55440 Upon receipt by WFHM, the AOM will be imaged and shipped to document custody to be included in the collateral file. <i>Adhere to the document handling process as outlined in the Foreclosure Manual in regards to faxing a copy of the recorded assignment doc handling process may need to be reviewed and altered based on the above change.</i>
4	If the field displays “2” “Assignment sent to County for Recording” • If a copy of the executed assignment is needed, email DocOrderingHMEC@wellsfargo.com and request a copy - o Specify in the body of the email that you require a copy of the unrecorded

	executed assignment • If a recorded copy of the assignment is required to proceed with first legal or foreclosure action email FDAssignmentDesk@wellsfargo.com and provide the following information: - o Escalation in subject line of email - o Loan # - o Date the Assignment is needed by - o Assignor and Assignee - o Your physical mailing address (Street Address, no P.O. Boxes) - o The specific department or contact person the assignment should be sent to • Add event Assignment Issue/Problem in VendorScape or go to the File Transfer Form on the Tool Menu and launch the FC_DS_Assignment_Needed or FC_IHR_Assignment_Needed or FC_IHNR_Assignment_Needed process in Desktop and complete the DDF Includes the assignor and assignee information for the needed assignment. • Retrieve the recorded assignment and complete the task Assignment Problem Corrected in VendorScape or complete the Executed Assignment Received by Attorney event in Desktop with the date the assignment was recorded. • Proceed with the foreclosure process. Adhere to the document handling process as outlined in the Foreclosure Manual with regard to faxing a copy of the recorded assignment to Wells Fargo (see Documents Obtained by your Office) <i>The original assignment that was previously sent will either be rejected or returned to Wells Fargo or the county may record it. If recorded, there will not be any impact on the Attorney's ability to proceed with foreclosure action.</i>
5	If the field displays "3" "Recorded Assignment received from County" • Email or send an intercom to <u>your</u> liaison and request a copy of the recorded assignment (specify in the body of the email if you require a copy or the original is required)
6	If the "FD AOM VADIDTN" field does not display a 1, 2, or 3 • Add event Assignment Issue/Problem in VendorScape or go to the File Transfer Form on the Tool Menu and launch the FC_DS_Assignment_Needed or FC_IHR_Assignment_Needed or FC_IHNR_Assignment_Needed process in Desktop and complete the DDF. Include the assignor and assignee information for the needed assignment. • Retrieve the recorded assignment and complete the task Assignment Problem Corrected in VendorScape or complete the Executed Assignment Received by Attorney event in Desktop with the date the assignment was recorded. • Proceed with the foreclosure process. Adhere to the document handling process as outlined in the Foreclosure Manual in regards to faxing a copy of the recorded assignment to Wells Fargo (see Documents Obtained by your Office)

*****This is only for escalated requests where Wells Fargo could face sanctions, miss a hearing, miss a sale, or halt foreclosure completely if not corrected immediately*****

WFHM Post Closing Team: Base the initial selection for assignment creation on loans that are >90 delinquent (or based on referral criteria set forth by the investor) and not yet referred to an attorney.

STEP	ACTION
1	Review the loan/chain of title to determine if an assignment is required

2	Prepare Assignment and image a copy of the executed unrecorded assignment prior to being submitted for recording in LIV (Loan Image Viewer)
3	Submit Assignment for recording to the county
4	Receive Recorded Assignment back from county and image a copy of the executed recorded assignment upon receipt from the county in LIV
5	Track Assignment (3 Stages) - MSP: MAS1/USR3, "FD AOM VALDIDTN" field (Page 3, position 6, field 4C) with one of the three values: 0=Assignment Not Needed 1=Assignment Process Started 2=Assignment Sent to County for Recording 3=Recorded Assignment received from County

Note: The FD Assignment Desk mail box will provide a 72 hour turn time for providing documents back to the requested firm

Foreclosure Mail

STEP	ACTION
1	Attorney: Your office may receive documentation from the court pertaining to the foreclosure action. Retain these documents and place in your archived file upon completion of the foreclosure. See Appendix A for examples of unnecessary mail that does not need to be sent. - Only send "critical documents" (Refer to Appendix A) to the appropriate department within Wells Fargo or your liaison. - To expedite the handling of any documentation that is sent, please make sure that the package is addressed appropriately. For the correct way to address the envelope/package, refer to Appendix A.
2	Liaison: If you receive critical mail documents from the Attorney, consult with your manager.

Documents Obtained by your office

STEP	ACTION
1	Attorney: Any recorded mortgages, title policies, recorded assignments, Bailee letters, or LNA, OBTAINED by your office on behalf of Wells Fargo, need to be faxed with the following completed cover sheet directly to our imaging department at: FAX: 877-816-0144
2	Please ensure that all of the information is submitted timely and that each document is faxed with a separate cover sheet.
3	The original document should then be retained with the foreclosure file unless the loan is reinstated.
4	If the loan is reinstated, please return the Original Note or LNA, and if applicable the original

	recorded mortgage, to the following address: Wells Fargo Home Mortgage Document Management MAC X9999-01Q 2701 Wells Fargo Way 2nd Floor Minneapolis, MN 55467-8000 Below is an actual fax cover sheet to be copied and used:
	Firm Name on behalf of Wells Fargo Home Mortgage Default Doc Department Date: _____ # Pages Excluding Cover Sheet: _____ Borrow Name: _____ Loan Number: _____ WFHM Client (Circle One) 106 472 591 685 708 936 Please image the attached document (one per cover sheet) on the above referenced loan & corresponding image type: _____ Note/LNA (03300) _____ Bailee Letter (20070) _____ Recorded Mortgage/DOT (03000) _____ Recorded Assignments (00600) _____ Title Policy (04700) <i>Please retain recorded document with the foreclosure file unless requested</i>

eNote Procedures

What is an eMortgage?

An eMortgage is a mortgage for which the promissory note and possibly other documents are created and stored electronically rather than by using traditional paper documentation that has a pen and ink signature.

What is an eNote?

An eNote is a promissory note or other promise by the borrower to repay a debt obligation that is in the form of an electronic record and has been electronically signed by the borrower.

How do I know if I receive an eNote Foreclosure Referral?

CP16 - myEXTRA Enterprise

MAS1 LOAN xxxxxxxxxx MSP LOAN MASTER MAINT. & DISPLAY 02/29/08 10:47:20

NAME J STELLMAN TYPE 13 1ST MTG, CONVEN W/O INS GROUP

-- USR4 -- EXPANDED USER FIELDS, PAGE 2

MARKE	STMT	2 POS	2 POS	2 POS	2 POS	CDISP	FCREO	FCREQ	FCNOT	MARKE
TING	ID	FLD4B	FLD5B	FLD6B	FLD7B	FLD2B	DATE	EXPDT	SENT	TING
MARKE	MARKE	DC	AUTH	ENOTE	FRCLS	BORR	CELLA	MTG	DCSUB	DC
TING	TING	IND	LTR	IND	REQID	DCDID	PPROV	REFER	CODE	CODE
				EP0						DCUSB
MARKE	MARKE	BORR	SLID3	SLID4	FRCLS	ASUMP	MULTI	7 POS	5 POS	
TING	TING	DCDDT	FLD4B	FLD5B	REQ	PRCSS	LIEN	FLD8A	FLD5B	
							CCGWFM			
1 PRE	2 PRE	CDISP	4 POS	4 POS	POST	9 POS	BPO		MARKE	
CLM #	CLM #	TYPE	FLD1B	FLD2B	CLM #	FLD7A	AMT		TING	
DC	BPO	ECN								
LNID	DATE									

LIFE-OF-LOAN: ENOTE, IF DEFAULT OCCURS PLEASE CONTACT YOUR FNMA REPRESENTA
 LOAN IS IN FORECLOSURE, F/C STOP = 1 FULL SETTLEMENT 10/16/07
 123 DAYS PAST PROJECTED LEGAL DATE

4B :00.4 03/05

STEP	ACTION
1	You will need to go to the MAS1/USR4 screen in MSP and, F5, and look for an "ENOTE IND" code that begins with the letter E. This code will tell you that this is an eNote loan.
2	In addition, upon the loan being referred to your office via VendorScope or Desktop, there will be a notation that this referral is an eNote referral.
3	If e-note certification is needed, email DocOrderingHMEC@wellsfargo.com .

Origination File Requests/Pooling and Servicing Agreements

STEP	ACTION
1	Attorney: In the instance that your office is in need of an origination file or Pooling and Servicing Agreement, please make your request through VendorScope by sending a message to the Attorney-File Requests processor. Please include the following information: • Specific details as to whether a copy of the file or the original physical file is needed. • Shipping contact information including contact name and complete mailing address • **Please note** Only request Pooling and Servicing Agreements if required by a Judge or for Discovery. • If a physical origination file is sent to your office, upon completion of review of the file, please return to : Wells Fargo Home Mortgage Document Management MAC X9999-01Q 2701 Wells Fargo Way 2nd Floor Minneapolis, MN 55467-8000

For Desktop Referrals, email request to DocOrderingHMEC@wellsfargo.com .

Collateral files Sent to Your Office

Attorney: Any collateral files that are sent to your office on behalf of Wells Fargo need to be returned to:

Wells Fargo Home Mortgage
Document Management
MAC X9999-01Q
2701 Wells Fargo Way
2nd Floor
Minneapolis, MN 55467-8000

Uploading Documents to VendorScape or Desktop

STEP	ACTION
1	Attorney: Any documents that your office obtains during the foreclosure process or submits to court should be uploaded to VendorScape or Desktop
2	To upload documents in Desktop go to the Tool Menu
3	Select Add Docs
4	Select the appropriate document type, and browse the document), including but not limited to: • Title Report • Assignments • Complaint • Notice of Default • Death Certificates • Warranty Deed • Quit Claim Deed

First Legal Action

The First Legal Action Date is the first public action required by law, such as filing a complaint or petition, recording a notice of default, or publication of a notice of sale.

STEP	ACTION
1	Attorney: When the First Legal is filed, update the First Legal step (T01) with the actual date of the filing.
2	If the First Legal is delayed, document a reason for the delay within VendorScape or Desktop weekly.

ACT	SCHED	ACTUAL	STEP	STEP DESCRIPTION	PRED	FLT	COST	G	R	C	L	F	P	T
111605	111605	U01	RFR 2 ATTY & ASGN 2 PRCSR	U01	0					*		1		
112605	112105	N82	DOCS RECEIVED BY ATTY	U01	10					*				
121605	112305	T01	1ST LEGAL ACTN COMPLETED*	U01	30					*		2		
012206	121505	T05	SVC ON DFNS COMPLETED	T01	60					*				
051206	020606	T14	JUDGM ENTERED/GRANTED	T05	148					*				
020606	021306	T25	ATTY SENT HUD OCC LTR	T14	0					*				
030806	050506	U20	F/C SCHEDULED SALE DATE	T14	30					*		3		
042606	042506	U31	SEND BID INSTRCTN TO ATTY	T14	79					*				
050506	050506	T32	F/C SALE HELD	U20	0					*		4		
101906		Y50	HUD REASONABLE DILIGENCE	T01	330					*				
050506	122306	F72	PROJECTED CONVEY DTE	T32	0					*				
061906	053106	T39	AFT SALE CONFIRMATION EXP	T32	45					*				
061406	050506	P23	POST SALE PKG RECEIVED	T39	5					*				
060206	060606	U47	CREATE 1099 RECORD	T39	2					*				
060206	060606	U45	CANC HAZ&PUT ON ASG CVG	T39	2					*				
060206	060606	U50	FILE ROUTED TO POST SALE	T39	2					*				
061306	060806	F87	FILE RECEIVED IN CLAIMS	U50	7					*				

FHA First Legal Delays

STEP	ACTION
1	Attorney: If your office is unable to complete the First Legal Action timely and agency/investor guidelines will not be met on a FHA loans, send notice via VendorScape or Desktop. - In Desktop, go to the Tool Menu, select Issues, and then Add Issue. For the Issue Type, select "FC First Legal Date Unable to be Met," then enter the projected end date and provide the reason First Legal could not be met. The "FC HUD Extension Needed" issue also needs to be raised stating the date the HUD cut date expires and that a new one needs to be ordered. - In VendorScape, submit the notice through the Foreclosure FLAD queue and advise the circumstances surrounding the delay. - The first legal action must be filed by the appropriate HUD deadline to avoid an interest curtailment or no later than 30 days after referral in judicial states and 10 days after referral in non-judicial states, whichever comes first. - Your office will be held responsible for any financial penalty that is incurred as a result of avoidable delays.
2	WFHM: Determine if the loan qualifies for a HUD extension and, if so, insert step P75, REQ EXT FROM HUD, on the FOR3 screen within MSP. Upon receipt of the response from HUD, insert either step P79, HUD APPROVED EXTN, or step P80, HUD DENIED EXTN, and send notice to the Attorney via

	VendorScape or Desktop.

Reports:

Attorney – HUD Extension: A monthly report will be uploaded to VendorScape or Desktop of all loans where we have requested a HUD extension and are awaiting a reply from HUD. (Reference)

First Legal Action Amended

STEP	ACTION
1	Attorney: If the First Legal Action needs to be amended, add step D54, AMENDED 1ST LEGAL ACTION on the FOR3 screen within MSP. Populate the actual date with the date the amended First Legal Action was filed. **Please Note** The required steps can be added through VendorScape. Under Task, choose “Add” then “Production Task – Amended 1st Legal Action.” When adding the event in VendorScape, the D54 – Amended 1st Legal Action will automatically be placed into MSP.
2	For Desktop Referrals, go to the File Transfer Form on the Tool Menu and launch the FC_Amended_First_Legal_Action_Direct_Source or FC_Amended_First_Legal_Action_InHouse_Referred or FC_Amended_First_Legal_Action_InHouse_Non_Referred process in Desktop and complete the Amended First Legal Action step. ***Please Note*** If your office has questions about the First Legal Action Date, raise the FLAD issue. Select Issues from the Tool Menu, Add Issue, then select the “FC FLAD” issue.
3	Activity: (To add more activities, press [Tab].)

Executables

Please ensure all social security numbers and financial account numbers are removed from any recorded documents such as Substitution of Trustees, Assignments, Deeds, Affidavits, etc., prior to submitting them to Wells Fargo for execution. In the event a document is sent that does include the loan number or mortgagor(s) social security number, the document may be returned to you to make necessary corrections prior to execution.

Please include the loan number and document name in the subject line as an identifier when you are submitting executable requests to Doc Execution.

Judgment Figures Process

STEP	ACTION
1	Attorney: Forward Judgment Affidavit Figure Request, including (good through date) to judgment.figures@wellsfargo.com, and enter log code FCJFR (FIGURES REQUESTED FROM FORECLOSURE) in VendorScape.
2	WFHM Executable Team: Once request is received in mailbox, enter log code FCJFRR (ATTORNEY REQUESTED JUDGEMENT FIGURES) in MSP. To produce figures for the attorney, the processor will enter loan number and good

	through date provided by attorney into the automation tool. Judgment figures, once generated, automatically will upload to the Attorney via VendorScape. Once the figures have been generated and sent to Attorney, enter log code FCJFGP (JUDGEMENT FIGURES PROVIDED TO ATTY) in MSP. There is a turnaround time of three (3) business days for this process.

The following Log Codes will be utilized for the judgment affidavit figures process:

Log Codes	Comments
FCJFR	FIGURES REQUESTED FROM FORECLOSURE (ATTY)
FCJFRR	ATTORNEY REQUESTED JUDGEMENT FIGURES (WFHM)
FCJFGP	JUDGEMENT FIGURES PROVIDED TO ATTY (WFHM)

Judgment Affidavit Verification Process

STEP	ACTION
1	Attorney: Upon verification of the judgment figures provided to your office, send the completed judgment affidavit to Wells Fargo Executable Area via email address, Judgment.Affidavit@wellsfargo.com. Enter log code FCAFRQ (ATTORNEY SUBMIT AFFIDAVIT FOR EXECUTION) in VendorScape.
2	WFHM Executable Team: Once request is received in mailbox, enter log code FCAFRC (JUDGMENT AFFIDAVIT RECEIVED FROM ATTY) in MSP. Print affidavit and submit to appropriate signor for final verification and execution of the affidavit. The signor must verify the following: - Borrower's Name - Property Address - Plaintiff Name/Foreclosing Entity - Principle Balance - Interest Amount - Late Charges - Tax Advances - Hazard Insurance Advance - Inspections - Broker's Price Opinion (BPO)/Appraisals - MIP/PMI Advance - Corporate Advance - Property Preservation - Suspense Credit - Escrow Advance **Please Note**: Depending on state regulations, the attorney will determine what figures will be included in the affidavit. - Once verified, the affidavit must be executed in the presence of a notary. Completed

	affidavit is returned to the requesting Attorney via overnight delivery. Enter log code AASFCA (APPROVED AND SIGNED AFFIDAVIT MAILED TO ATTY) and tracking number in MSP. There is a turnaround time of ten (10) business days for this process, provided all supporting documentation is available at time of execution. The following Log Codes will be utilized for the judgment affidavit figures process: <table border="1"> <thead> <tr> <th>Log Codes</th><th>Comments</th></tr> </thead> <tbody> <tr> <td>FCAFRQ</td><td>ATTORNEY SUBMIT AFFIDAVIT FOR EXECUTION (ATTY)</td></tr> <tr> <td>FCAFRC</td><td>JUDGMENT AFFIDAVIT RECEIVED FROM ATTY (WFHM)</td></tr> <tr> <td>AASFCA</td><td>APPROVED AND SIGNED AFFIDAVIT MAILED TO ATTY (WFHM)</td></tr> </tbody> </table>	Log Codes	Comments	FCAFRQ	ATTORNEY SUBMIT AFFIDAVIT FOR EXECUTION (ATTY)	FCAFRC	JUDGMENT AFFIDAVIT RECEIVED FROM ATTY (WFHM)	AASFCA	APPROVED AND SIGNED AFFIDAVIT MAILED TO ATTY (WFHM)
Log Codes	Comments								
FCAFRQ	ATTORNEY SUBMIT AFFIDAVIT FOR EXECUTION (ATTY)								
FCAFRC	JUDGMENT AFFIDAVIT RECEIVED FROM ATTY (WFHM)								
AASFCA	APPROVED AND SIGNED AFFIDAVIT MAILED TO ATTY (WFHM)								
3	Attorney: Once the judgment affidavit is received by your office, review the affidavit for accuracy. Enter the log code FCAARA (ATTY ACKNOWLEDGED RECEIPT OF AFFIDAVIT). To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field. - When the judgment affidavit is sent to court, enter the Judgment Affidavit-REVISED sent to court task in VendorScape. Note: Until this task is mapped from VendorScape or Desktop to MSP, please complete the step 810 (JDGMT AFF SENT TO COURT) manually in MSP or contact your foreclosure processor. - When the affidavit is filed, complete the Judgment Affidavit Acknowledged by Court task in VendorScape. Upload a copy of the Affidavit along with all documents filed with the affidavit to VendorScape using the Affidavit – Revised document type (see the following instructions to set up the VendorScape task). For Desktop, go to the Tool Menu, Add Docs, and the upload as AFFIDAVIT.								
4	Attorney: If the judgment affidavit is executed by your office, follow the below procedure: - When the judgment affidavit is sent to court, enter the Judgment Affidavit-REVISED sent to court task in VendorScape. **Please note** Until this task is mapped from VendorScape or Desktop to MSP, please complete the step 810 (JDGMT AFF SENT TO COURT) manually in MSP or contact your foreclosure processor. - When the affidavit is filed, complete the Judgment Affidavit Acknowledged by Court task in VendorScape. Upload a copy of the affidavit with all documents filed with it to VendorScape using the Affidavit – Revised document type (see attached instructions to setup the VendorScape task). For Desktop, go to the Tool Menu, Add Docs, and the upload as AFFIDAVIT.								
5	Attorney: Your office is responsible for following up on the affidavits by reviewing the FOR2 screen in MSP for the log code AASFCA. If you have not received the affidavit after 10 business days, please send a status request email to Judgment.Affidavit@wellsfargo.com. Status request emails should include the following: In the subject line, please use the following wording: - Status Request for loan number _____ In the body of the email, please use the following wording: - Original request sent on __ (date) __ to the _____ email box. The reason for the request is _____.								

Non-Figure Affidavit Process

STEP	ACTION
1	Attorney: Send affidavits to Wells Fargo Executable Area via email address, doc.execution@wellsfargo.com. Enter log code FCAFRQ (ATTORNEY SUBMIT AFFIDAVIT FOR EXECUTION) in VendorScape or Desktop to notify them that your office has sent the affidavit for execution. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field. Your office is responsible for the accuracy of the affidavits. The affidavits should have no blank spaces other than the signature for the Executable Team to complete.
2	WFHM Executable Team: Once verified, the affidavit must be executed in the presence of a notary. Enter log code FCNFDS (NON-FIGURE DOCUMENT SIGNED) in MSP. Completed affidavit is returned to the requesting attorney via overnight mail. Enter log code FCAFRT (SIGNED AND RETURNED AFFIDAVIT TO ATTY) and tracking number in MSP. There is a turnaround time of 10 business days for this process, provided all supporting documentation is available at time of execution. Once affidavit has been completed, enter in MSP and overnight affidavit to attorney.
3	Attorney: Your office is responsible for following up on the affidavits, by reviewing FOR2 for the log code FCAFRT. If you have not received the affidavit after 10 business days, send a status request to doc.execution@wellsfargo.com. Status request emails should include the following: In the subject line, please use the following wording: - Status Request for loan number _____ In the body of the email, please use the following wording: - Original request sent on __ (date) __ to the _____ email box. The reason for the request is _____.

The following Log Codes will be utilized for the judgment affidavit figures process:

Log Codes	Comments
FCAFRQ	ATTORNEY SUBMIT AFFIDAVIT FOR EXECUTION (ATTY)
FCNFDS	NON-FIGURE DOCUMENT SIGNED
FCAFRT	SIGNED AND RETURNED AFFIDAVIT TO ATTY (WFHM)

Substitution of Trustee (SOT)

STEP	ACTION
1	Attorney: In order to prove that Wells Fargo has standing in order to initiate a foreclosure action on a loan, the following new requirements are now in effect: Endorsements - All SOT's must have a correctly endorsed note Assignments (see Assignments for validating if an assignment is in progress)

	- o All MERS accounts must have executed assignments, the Substitution of Trustee (SOT) can be signed prior to it being recorded - o All Non-MERS accounts must have an executed assignment based on the state requirements. The SOT can be signed prior to it being recorded. - o If the SOT references an assignment within the document the properly executed assignment must be obtained • Recorded Deed of Trust or Mortgage Files needing a corrected endorsement or assignment will not follow the Wells Fargo policy of returning exception files to the Attorney after 48 hours. These files will be held with Wells Fargo until the follow-up actions are completed to get the corrected documents. Files missing the Recorded Deed of Trust or Mortgage will be halted for 40 hours. Documentation not received within the 48-hour timeframe will be stopped, and the Attorney will be required to resubmit the SOT with appropriate documentation.
2	Attorney: Forward Substitution of Trustee (SOT) documents to Wells Fargo Executable Area via email address (SOTDOC@wellsfargo.com). Enter log code FCSOTW (SOT SENT TO WF) in VendorScape or Desktop to notify them that your office has sent the SOT for execution. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
3	WFHM Executable Team: • Once verified, the SOT must be executed in the presence of a notary. Enter log code FCDSRP (SOT SIGNED) Completed SOT is returned to the requesting attorney via overnight delivery. Enter log code FCSOTD (FORWARDED COMPLETED SOT TO ATTY) and tracking number in MSP. There is a turnaround time of 10 business days for this process, provided all supporting documentation is available at time of execution.
4	Attorney: Your office is responsible for following up on the Substitution of Trustee, by reviewing FOR2 for the log code FCSOTD. If you have not received the SOT after 10 business days, send a status request to SOTDOC@wellsfargo.com. Status request emails should include the following: In the subject line, please use the following working: • Status Request for loan number _____ In the body of the email, please use the following working: • Original request sent on __ (date) __ to the _____ email box. The reason for the request is _____.

The following Log Codes will be utilized for the judgment affidavit figures process:

Log Codes	Comments
FCSOTW	SOT SENT TO WF (ATTY)
FCDSRP	SOT SIGNED (WFHM)
FCSOTD	FORWARDED COMPLETED SOT TO ATTY (WFHM)

Deeds

STEP	ACTION
1	Attorney: Forward deeds to Wells Fargo Executable Area via the following email address: Deeddoc@wellsfargo.com. Enter log code FCDDWF (DEED SENT TO WF) in

	VendorScape or Desktop to notify it that your office has sent the deed for execution. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field. • All executable documents must be in a Word doc format. PDF formats will be returned unexecuted. • Only send one attachment per email. All special instructions must be in the coversheet of the Deed. • Your office is responsible for uploading supporting documents (i.e., Recorded Deed of Trust or Mortgage) to VendorScape.
2	WFHM Executable Team: • Once verified, the deed must be executed in the presence of a notary. Enter log code DDSGEX (DEED SIGNED AND EXECUTED) to MSP. • Completed deed is returned to the requesting Attorney via overnight delivery. Enter log code FCDEEA (EXECUTED DEED MAILED TO ATTORNEY) and tracking number in MSP. There is a turnaround time of 10 business days for this process.
3	Attorney: Your office is responsible for following up on the deed, by reviewing FOR2 for the log code FCDEEA. If they not received the deed after 10 business days, send a status request to DeedDoc@wellsfargo.com. Status request emails should include the following: In the subject line, please use the following wording: • Status Request for loan number _____ In the body of the email, please use the following wording: • Original request sent on __ (date) __ to the _____ email box. The reason for the request is _____.

The following Log Codes will be utilized for the judgment affidavit figures process:

Log Codes	Comments
FCDDWF	DEED SENT TO WF (ATTORNEY)
DDSGEX	DEED SIGNED AND EXECUTED (WFHM)
FCDEEA	EXECUTED DEED MAILED TO ATTORNEY (WFHM)

Assignment of Bid

STEP	ACTION
1	Attorney: Forward assignments of bid to Wells Fargo Executable Area via email address, Doc.Execution@wellsfargo.com . Enter log code FCABWF (ASSIGNMENT OF BID SENT TO WF) in VendorScape or Desktop to notify it that your office has sent the assignment of bid for execution. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
2	WFHM Executable Team: - Once verified, the assignment of bid must be executed in the presence of a notary. Enter log code FCNFDS (NON-FIGURE DOCUMENT SIGNED) in MSP. - Completed assignment of bid is returned to the requesting attorney via overnight delivery. Enter log code FCAFRT (SIGNED AND RETURNED AFFIDAVIT TO ATTY) and tracking number in MSP. There is a turnaround time of 10 business days for this process.
3	Attorney: Your office is responsible for following up on the assignment of bid, by reviewing FOR2 for the log code FCAFRT . If they not received the assignment of bid after 10 business days, send a status request to doc.execution@wellsfargo.com . Status request emails should include the following: In the subject line, please use the following wording: - Status Request for loan number _____ In the body of the email, please use the following wording: - Original request sent on __ (date) __ to the _____ email box. The reason for the request is _____.

The following Log Codes will be utilized for the judgment affidavit figures process:

Log Codes	Comments
FCABWF	ASSIGNMENT OF BID SENT TO WF (ATTY)
FCNFDS	NON-FIGURE DOCUMENT SIGNED
FCAFRT	SIGNED AND RETURNED AFFIDAVIT TO ATTY (WFHM)

Rescission Documents

If your office requires Wells Fargo to execute documents to process the Rescission of the foreclosure sale, please do the following:

STEP	ACTION
1	In the subject please place <u>"Notice of Rescission"</u> in the beginning of the Subject Line of the email
2	Please send the document to doc.execution@wellsfargo.com

NOTE: Failure to do both items mentioned above will delay in the execution of the rescission document required.

If the document has not been received after **30 calendar days**, the escalation is as follows:

STEP	ACTION

1	Please review the system notes to see if the document has already been sent out: • FCAFRT – Signed and returned affidavit to Attorney • FCDEEA – Executed Deed mailed to Attorney
2	If this log code does not exist in the system, please place “2 nd request” in the subject line in front of the “Notice of Rescission” • Example: “2nd Request – Notice of Rescission - Client#/Loan#”
3	Please USE the original email with the original date sent to doc.execution@wellsfargo.com along with the attached document that needs to be executed.

Failure to do so will result in push back of the email request, requesting proof of original submission that could delay the request.

Miscellaneous Documents

STEP	ACTION
1	Attorney: Forward miscellaneous documents to the Wells Fargo Executable Area via the following email address: doc.execution@wellsfargo.com . You are not responsible for entering a log code.
2	WFHM Executable Team: • Once verified, the document must be executed in the presence of a notary. Enter log code FCNFDS (NON-FIGURE DOCUMENT SIGNED) in MSP. • Completed document is returned to the requesting Attorney via overnight delivery. Enter log code FCAFRT (SIGNED AND RETURNED AFFIDAVIT TO ATTY) and tracking number in MSP. There is a turnaround time of 10 business days for this process.
3	Attorney: Your office is responsible for following up on the documents by reviewing FOR2 for the log code FCAFRT . If they not received the document after 10 business days, send a status request to doc.execution@wellsfargo.com . Status request emails should include the following: In the subject line, please use the following wording: 1. Status Request for loan number _____ In the body of the email, please use the following wording: 2. Original request sent on __ (date) __ to the _____ email box. The reason for the request is _____.

The following Log Codes will be utilized for the judgment affidavit figures process:

Log Codes	Comments
FCNFDS	NON-FIGURE DOCUMENT SIGNED
FCAFRT	SIGNED AND RETURNED AFFIDAVIT TO ATTY (WFHM)
FCDOCA	DOC REQUEST EXECUTED AND FORWARDED TO ATTY (WFHM)

Executable Document Delaying Tracking

If you are pending an executable document that does not already have a step assigned to it (i.e., assignments), utilize the following procedure:

In Desktop, the Client Document Execution issue needs to be raised.

STEP	ACTION
1	Go to the Tool Menu
2	Select Issues
3	Add Issue
4	For the Issue Type, select "FC Client Document Execution"
5	Enter the projected end date
6	Provide a description of what document is being sent for execution

Currently, the below steps have to be entered manually in both **Vendorscape** and Desktop:

667	Executable Doc Delay
668	Executable Doc End

STEP	ACTION
1	The 667 needs to be added to MSP on the FOR3 and completed with the actual date the delay started.
2	The 668 needs to be added to MSP on the FOR3 screen with the actual date remaining open until the delay has ended.
3	Once the delay has ended, complete the actual date of the 668 with the actual date the delay ended.

Judgment

STEP	ACTION
1	Attorney: Upon receipt of the e-filed judgment affidavit, your office will update the actual date for step T14, JUDGM ENTERED/GRANTED, on FOR3 with the filing date of the judgment.
2	In Desktop, complete the DDF attached to the Judgment Entered/Granted step
3	Complete the step with the filing date of the judgment

Motion for Summary Judgment (MSJ)

****Please note**** If you are following the MSJ process as standard practice, do not add the Contested Foreclosure event in VendorScape or Desktop or the correlating steps. If the file is truly contested, please see the Contested Files section of this manual.

STEP	ACTION
1	Attorney: When an MSJ is filed, your office will add the D85, MSJ FILED, steps to the FOR3 screen in MSP, and populate the actual date with the date the motion for summary judgment

	was filed
2	Add the T17 step, ATTY SCHD SUMMARY JU, and populate the actual date with the date for which the Summary Hearing is scheduled. If the hearing date is changed, update the actual date with the new scheduled hearing date.
3	If the Motion for Summary Judgment (MSJ) is granted , your office will add the D86 (MSJ GRANTED) step to the FOR3 screen within MSP and populate the actual date with the date it was granted. Within Desktop, complete the MSJ Hearing Held step, and select "Yes" in the DDF.
4	If the MSJ is denied, insert step E30, MSJ DENIED/SENT TO DOS, and follow the procedures outlined in the Litigation section of this manual to submit the loan to the DOS Team at Wells Fargo. In Desktop, complete the MSJ Hearing Held step and select "No" in the DDF. **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task – Motion for Summary Judgment Granted." When adding the event in VendorScape the D86 – MSJ Granted will automatically be placed into MSP. Under Task, choose "Add", and then "Production Task – Motion For Summary Judgment Denied." When adding the event in VendorScape the E30 – MSJ Denied/Sent to DOS will automatically be placed into MSP. For Desktop referrals, go to the File Transfer Form on the Tool Menu and add the FC_MSJ_Direct_Source process or FC_MSJ_InHouse_Referred process or FC_MSJ_InHouse_Non_Referred process. <i>Complete the Motion For Summary Judgment Filed DDF and enter the completed date. This will update the D85 step in MSP.</i>

Reports:

Liaison – MSJ Follow Up Report: Daily list of loans where the Attorney has filed MSJ and the hearing date has not been set. Liaison is to monitor until the hearing date has been scheduled. Once the T17 step ATTY SCHD SUMMARY JU actual date has been populated, the loan falls off the report.

Liaison – MSJ Pending Report: The daily list of loans for which the attorney has filed a MSJ that has not yet been granted or denied. The liaison is to monitor until the MSJ is granted, or denied. Once the loan is coded as granted or denied, it falls off the report. If denied, the attorney contacts Default Operations Support.

Judgment Amended

STEP	ACTION
1	Attorney: If your office determines judgment needs to be amended due to additional disbursements, add step D95 (REQUEST TO AMEND JUDGMENT) on the MSP FOR3 screen. The actual date will be populated with the date the amended judgment was sent out to the court.
2	In Desktop, if your office needs to request any funds that have been disbursed since judgment so you are able to amend the judgment to proceed to sale, raise the Additional Sums Disbursed Issue. Select Issues from the Tool Menu, add issue, then select the "FC Additional Sums Disbursed" issue. Enter the expected end date and provide a description of the issue. **Please Note** The required steps can be added through VendorScape.

	Under Task, choose "Add" then "Production Task – Judgment Amended." When adding the event in VendorScape the D95 – Judgment Amended automatically will be placed into MSP.
3	For Desktop referrals, go to the File Transfer Form on the Tool Menu
4	Launch the FC_Amended_Judgment_Direct_Source or FC_Amended_Judgment_InHouse_Referred or FC_Amended_Judgment_InHouse_Non_Referred process
5	Complete the DDF
6	Place a note in VendorScape or Desktop documenting the original judgment amount and the new judgment amount. Your office is required to obtain Wells Fargo's approval to amend judgment.
7	Liaison: You will be responsible for working the Amended Judgment report daily and inserting either step E98, AMENDED JUDGMENT REQ GRANTED, to approved amending judgment, or step E99, AMENDED JUDGMENT REQ DENIED, to deny.
8	Attorney: Please escalate on a case-to-case basis to the WFHM Foreclosure Supervisor in the event you are advised not to amend judgment, but believe it would be in the best interest of Wells Fargo to do so.

Reports:

Over-allowable Fee Approval Processor – Amended Judgment Request: List of loans where the Attorney has entered an actual date for step D95 and step E98 or step E99 is null. Provides a list of loans where the Attorney has asked for permission to amend judgment and permission has not been granted or denied. (Action Required)

BPO/Appraisal Ordering and Bidding

Non FHLMC/VA-Requesting a Copy of the BPO

If your office is in need of a copy of the Current BPO or a BPO needs to be ordered, raise the Appraisal/BPO Needed issue.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Select Add Issue
3	Choose the "FC Appraisal/BPO Needed" issue
4	Enter the expected end date
5	Enter a description as to whether a copy of the current BPO is needed or if a BPO needs to be ordered.

FHLMC Designated BPO Ordering Process

****Please Note**:** This section only applies to FHLMC Designated Counsel. If your office is not FHLMC Designated Counsel, you are not responsible for ordering BPO for FHLMC.

****Please Note**** FHLMC requires that a BPO be ordered on all loans prior to sale.

STEP	ACTION
1	Attorney: To ensure adequate bid, FHLMC Designated counsel will complete the following steps:

2	45 days prior to sale order BPO through BPO direct **Please note** If a sale can be set within 45 days of referral, order the appraisal at the time of referral.
3	Input Z47, FHLMC BPO ORDERED, step with actual date at time of order.
4	Follow up with BPO direct 10 days after placing order to ensure completion
5	Once completed, insert the Z19, ATTORNEY RECEIVED BPO, step, and complete with the actual date. **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task – FHLMC BPO Ordered." When adding the event in VendorScape the Z47 – FHLMC BPO Ordered automatically will be placed into MSP. Under Task, choose "Add," then "Production Task – BPO Received." When adding the event in VendorScape, the Z19 – FHLMC BPO Received automatically will be placed into MSP. For Desktop Referrals, complete the Attorney Ordered BPO event in the FC_FM_BPO Ordered process after ordering the BPO. Once the BPO is received, complete the Attorney Received BPO event.
6	WFHM: Complete the following: • BPO will be received from BPO direct via email. • Update the value on MSP It is your responsibility to follow FHLMC's requirements for ordering the BPO prior to the scheduled sale date.
7	Attorney: If a previously FHLMC designated loan falls out of the designated process, insert step N99, FHLMC NO LONGER DESIGNATED, on FOR3 in MSP. This will notify WFHM to complete the bid as normal. **Please Note** The required steps can be added through VendorScape.
8	Under Task, choose "Add" then "Production Task – FHLMC No Longer Designated." When adding the event in VendorScape the N99 –FHLMC No Longer Designated automatically will be placed into MSP.
9	<i>In Desktop, raise the Loan No Longer in FHLMC Designated Program issue. Select Issues from the Tool Menu</i>
10	<i>Select Add Issue</i>
11	Choose the "FC Loan No Longer in FHLMC Designated Program" issue. This will map the N99 step and update the bidding process.
12	WFHM: Complete and issue the bid 5 days prior to sale

Reports

Attorney – Attorney Ordered BPO/Appraisal: Weekly report of all loans where the BPO has been ordered but not yet received. (Action Required)

Compliance – BPO Ordered, Not Received: Weekly report of all loans where the Z17 step has an actual date and there is no Z19 or U09 step actual date and it has been more than 10 days. (Action Required)

VA Appraisal Ordering Process

Attorney: Please see [Appendix P](#) for the step by step process for ordering the VA appraisal

Reports

Attorney – Attorney Ordered BPO/Appraisal: Weekly report of all loans where the BPO/Appraisal has been ordered but not yet received. (Action Required)

Liaison – BPO Ordered, Not Received: Weekly report of all loans where the U18 step has an actual date and there is no Z19 or U09 step actual date and it has been more than 10 days. (Action Required)

Bids

****Please Note**** If the foreclosure sale date is changed for any reason, a new bid is required, whether the bid was a specified bid or a total debt bid. If multiple bids are present, use the most recent bid.

If you receive a bid with competitive language and the state the property resides in does not allow competitive bidding or there is an additional cost associated with bidding competitively, please contact Nikki Cureton at curen01@wellsfargo.com for further instructions.

STEP	ACTION
1	If Hazard Claims has determined that a bid amount needs to be reduced, the bidding team at Wells Fargo will factor that reduction into the instructions provided. However, If your firm is responsible for preparing the bidding instructions and you will be bidding total debt, ensure that the reduction amount already is not included in restricted escrow on the payoff figures. If it is not, reduce the total debt by the reduction amount. Note: If your firm is not responsible for preparing bidding instructions, no one at your firm should alter any bidding instructions.
2	Attorney: Your office is responsible for creating bids in the following situation: FHLMC Uninsured Designated Counsel (No Mortgage Insurance): Follow the FHLMC guidelines in issuance of bid. This should be completed 5 business days prior to sale. Prior to issuing a bid, the Attorney must check the MIP1 screen to ensure there is no Mortgage Insurance (MI) coverage on the loan. Primary MI coverage would be located under Payee on the left side of the screen, and any Pool MI coverage would be found on the right side of the screen. If Primary or Pool MI information is present, the bid will be prepared by Wells Fargo. If Wells Fargo provides a bid, the Attorney must follow that bid.

	<pre> -----MAIN----- ACT SEQ OV PAYEE TRM DUE DISB AMOUNT BILL ADJ FL VP PAYEE POLICY - 02 12 - .00 Y 808 0053124104 MI TYPE LPMI IND ST. TAX AMT- INV RSN CD AUTO TERM - COMP GUARANTY NO RHS RATE % PRI MI COV PROP VAL PURCHASE PRICE LTV 0.0000 0 73,487 240,000 .0 -----PF2 ADDITIONAL MESSAGES----- PRESS PF14 FOR MEMOS LOSS MIT IND = D WORKOUT DENIED COMPLETED REO REMOVED LOSS MITIGATION COMPLETED FORECLOSURE 01/27/11 ZERO PRINCIPAL BALANCE PAYEE POOL PMI PAYEE 808 (GENERIC CODE 006) *** NO PAYEE HEADER *** RADIANT GUARANTY, INC. 1601 MARKET STREET 17TH & JFK BLVD PHILADELPHIA , PA 19103 800-523-1988 </pre>
3	Insert step N36, ATTORNEY COMPLETES BID, with actual date of issuance of bid. FHA: Effective 11/5/2011, bidding instructions will be prepared and provided by Wells Fargo Home Mortgage.
4	WFHM: Bid Automation will attempt to complete the bid 14 days prior to the foreclosure sale for all other loan types except Wells Fargo Financial and Wells Fargo Home Equity Loans.

Reports:

Attorney – FHA Bids: Daily report of all FHA loans with a sale scheduled within the next 14 business days and the U31 and N36 actual dates are null. Alerts Attorney to complete bid (the 14 days allows for your firm to be proactive in completing bid - Action Required).

Attorney – FHLMC Designated Bid Report: Provides FHLMC designated Attorneys with a weekly list of FHLMC loans where the sale is within the next 14 business days and a bid is required (the 14 days allows for your firm to be proactive in completing bid). (Action Required)

Liaison – FHA Bids: Daily list of FHA loans where the sale is scheduled within the next 14 business days and the U31 and N36 (Send Bid Instructions to Attorney) for FHA loans has not been updated (Action Required)

Liaison – FHLMC Designated Bids: Daily list of FHLMC loans where the sale is scheduled within the next 14 business days and the U31 and N36 (Send Bid Instruction to Attorney) for FHLMC loans has not been updated (Action Required)

Escalated Bids

STEP	ACTION
1	Attorney: If you need a bid within the next 48 hours under the following circumstances, send a message via VendorScape to Escalated Bids. In Desktop, the loan automatically will be sent to the FC Escalated Bid queue if the bid is not received within 48 hours of the scheduled sale date.
2	Otherwise, go to the File Transfer Form on the Tool Menu, add the FC_Escalated_Bid_Direct_Source or FC_Escalated_Bid_InHouse_Referred or

	FC_Escalated_Bid_InHouse_Non_Referred process, and complete the Escalated Bid Request event. - The sale is going to be cancelled, postponed, or adjourned within 48 hours because your office has not received the bid. - If during the pre-sale review, you discover advances were made since the initial bid was sent and the sale is within 48 hours. - If you have other questions that do not meet these criteria, email one of the below escalated contacts: - Johnnie Timm- Johnnie.Timm@wellsfargo.com - Katie Morris- Katie.Morris@wellsfargo.com - Jodilynn Sobotta- Jodilynn.Sobotta@wellsfargo.com
3	Attorney: The following bids are not handled by the foreclosure bidding team. Do not contact the Escalated Bid queue or launch the FC_Escalated_Bid_Direct_Source or FC_Escalated_Bid_InHouse_Referred or FC_Escalated_Bid_InHouse_Non_Referred process in the following circumstances: Wells Fargo Financial: contact Ashleigh Jackson at Ashleigh.J.Jackson@wellsfargo.com Wells Fargo Home Equity Loans: contact Nathan Remington at Nathan.Remington@wellsfargo.com FHLMC Uninsured Designated Counsel Loans: foreclosure counsel should prepare the bid

In Desktop, if your office has questions surrounding a bid, the Escalated Bid issue needs to be raised.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Add Issue
3	Select the "FC Escalated Bid" issue
4	Enter the expected end date and the questions needing to be addressed

*****Please note***If the bid has not been received and the sale is within 24 hours, the Escalated Bid issue is not able to be launched.**

VA 567 Form

This form will no longer be used for our files. Upon receipt of the VA Bid-complete this step.

Pre-Sale Loan Review

Your office is required to review all loans prior to sale to ensure Wells Fargo is able to proceed to sale. It is very important that you review each loan to make sure we have marketable title and to prevent rescissions. This review is required **ONE WEEK** prior to the sale **AND AGAIN WITHIN 24 HOURS** of the sale.

Attorney: When each review is completed, if we can proceed to the foreclosure sale, enter log code **FCRVSL** (REVIEWED LOAN FOR SALE) in VendorScope or Desktop. To enter the log code in Desktop:

STEP	ACTION
1	Select Add Note from the Tool Menu

2	Select Note Type Foreclosure
3	Enter the log code in the MSP log code field

Attorney: When each review is completed, if we cannot go to sale,

STEP	ACTION
1	Notify the Wells Fargo Liaison immediately
2	Enter the log code FCNESL (LOAN NOT ELIG FOR SALE) in VendorScape or Desktop
3	As soon as the issue that was preventing the file from proceeding to sale is resolved, enter the Log Code FCRVSL (REVIEWED LOAN FOR SALE)
4	To enter the log code in Desktop, select Add Note from the Tool Menu
5	Select Note Type Foreclosure
6	Enter the log code in the MSP log code field

****Please Note**** A log code must be entered at the time of each review and the FCRVSL log code is required before the sale is held.

The below are required to review during the pre-sale review:

Payments/P309

STEP	ACTION
1	Attorney: Review P309 for payments that have been applied since the loan was referred (U01 Actual Date). - Confirm on DLQ1 that the “Due Date” is greater than 90 days delinquent and that there is no suspense balance. - If, per your state guidelines, the suspense balance needs to be returned prior to sale, contact the cash area at FCApplication@wellsfargo.com. Please note: that this email address should only be used for suspense request 24 hours prior to sale.

Bankruptcy

STEP	ACTION
1	Attorney: Check Pacer for any bankruptcy filings that would prevent us from going to sale - perform within 24 hours of the foreclosure sale. If a bankruptcy has been filed, follow the procedures for notifying the bankruptcy department located in the Bankruptcy section of this manual.

Insurance Claim/Property Damage

STEP	ACTION
1	Attorney: Review the TSK2 screen and make sure there are no open insurance or property preservation issues. Insurance or property preservation issue can be identified by the task codes listed on the next page.

	• If there is an insurance claim or damaged property task open, contact the Wells Fargo Liaison to see if we can go to sale. • If we can go to sale, ask the Wells Fargo Liaison if our bidding will be affected. Sometimes Wells Fargo receives insurance proceeds and this amount will be deducted from a total debt bid. • Look at the HAZN screen to see if there are any insurance issues or claim filed.

Task ID	Description
DLDDEF	Default Property Claim Funds
DLDNFL	100% Inspection Request
DLDHLF	50% Inspection Request
DLDLGF	LA Grant Program Final Disburs
DLDLOS	Internal Loss Draft Follow-Up
DMGFMR	FHLMC Distressed Property
DMGMS2	Insurance claim assigned to MSI (Non Big 6 type of damages)
DMGMSI	Insurance claim assigned to MSI (Big 6 type of damages)
DOS014	City Code Violations-DOS
DOS600	Title Claim Policy Limits
FMLVCO	FHLMC charge off review
PNPCDM	Condemned Property
PNPDEM	Demolition Notice Received
PNPDIS	Disaster Inspection
PNPDMG	DMG Prop in PP DMG Code
PNPFIL	Insurance claim filed by the mortgagor.
PNPMLD	Mold Abatement Tracking
PNPMTH	Meth Lab
PNPQCM	Insurance claim assigned to Quality Claims Management
PNPREF	Property had sustained more than \$2,000 in property damages.
PNPRUT	Insurance claims for the Rutledge Law Firm
PNPSU2	Insurance claim assigned to Superior Home Services (Non Big 6 type of damages)
PNPSUP	Insurance claim assigned to Superior Home Services (Big 6 type of damages)
PNPVIO	General violation
SOS005	Condemn/Eminent Domain-SOS
VIOCDM	Condemnation
VIOCRG	Charge Off
VIODEM	Demolition
VIOFTD	Fast Track Demolition
VIOMTH	Meth Lab/Drug House
VIOPNT	Lead Paint Violation
VIORDL	Unfinished Remodel
VIOUGR	Code Upgrades Required
VIOPAC	Pennsylvania Conservatorship
VIORCV	Receivership Active

CPI4 - myEXTRA! Enterprise

TSK2 OPTIONS: OCD LOAN LEVEL TASK INDEX 11/21/07 10:12:13
 09/01/05 TYPE CONV. RES.

STATUS	TASKID	DPT	RSP	W/S	FOLLOWUP	EXP/ACTL	TITLE
OPEN	PNPFLD	PNP		ALL		11/19/07	FLOOD CLAIMS
	PNPOPN	PNP		ALL		11/22/07	PROP REPORTED VACANT
CLOSED	*** NO CLOSED TASKS						
DELETED	*** NO DELETED TASKS						

ENTER ANY TASKID TO INITIATE TSK1 FOR DISPLAYED LOAN: _____

BA @:00.1 23/57

Connected to hos NUM

Title Claims

STEP	ACTION																						
1	Attorney: Review the TSK2 screen and make sure there are no open title claims. Title claims can be identified by the following task codes on TSK2. <table border="1"> <thead> <tr> <th>TaskID</th><th>Description</th></tr> </thead> <tbody> <tr><td>DOS003</td><td>ILLEGAL TRANSFER OF TITLE-DOS</td></tr> <tr><td>DOS018</td><td>DRUG FORFEIT/GOV SEIZURE - DOS</td></tr> <tr><td>DOS027</td><td>PARTITION ACTIONS - DOS</td></tr> <tr><td>DOS201</td><td>F/C TITLE CLAIM - DOS</td></tr> <tr><td>DOS202</td><td>FRAUD ISSUES</td></tr> <tr><td>DOS206</td><td>TEMP RESTRAINING ORDER - DOS</td></tr> <tr><td>DOS401</td><td>FHLMC MHU REPURCHASES</td></tr> <tr><td>DOS600</td><td>TITLE CLAIM POLICY LIMITS</td></tr> <tr><td>SOS005</td><td>CONDEM/EMINENT DOMAIN - SOS</td></tr> <tr><td>SOS009</td><td>PROBATE/NOTICE TO CREDITORS</td></tr> </tbody> </table> - Ensure that Wells Fargo has marketable title prior to going to sale. - Enter the "actual" date for step U99, FINAL TITLE CLEAR, on FOR3. **Please Note** The required step can be completed through VendorScope. This	TaskID	Description	DOS003	ILLEGAL TRANSFER OF TITLE-DOS	DOS018	DRUG FORFEIT/GOV SEIZURE - DOS	DOS027	PARTITION ACTIONS - DOS	DOS201	F/C TITLE CLAIM - DOS	DOS202	FRAUD ISSUES	DOS206	TEMP RESTRAINING ORDER - DOS	DOS401	FHLMC MHU REPURCHASES	DOS600	TITLE CLAIM POLICY LIMITS	SOS005	CONDEM/EMINENT DOMAIN - SOS	SOS009	PROBATE/NOTICE TO CREDITORS
TaskID	Description																						
DOS003	ILLEGAL TRANSFER OF TITLE-DOS																						
DOS018	DRUG FORFEIT/GOV SEIZURE - DOS																						
DOS027	PARTITION ACTIONS - DOS																						
DOS201	F/C TITLE CLAIM - DOS																						
DOS202	FRAUD ISSUES																						
DOS206	TEMP RESTRAINING ORDER - DOS																						
DOS401	FHLMC MHU REPURCHASES																						
DOS600	TITLE CLAIM POLICY LIMITS																						
SOS005	CONDEM/EMINENT DOMAIN - SOS																						
SOS009	PROBATE/NOTICE TO CREDITORS																						

	step is part of the Foreclosure template, however the actual date can be completed in VendorScape. Under Task, choose “Add,” then “Production Task – Final Title Clear.” When adding the event in VendorScape the U99 – Final Title Clear and entering the actual date, it automatically will be updated in MSP. For Desktop, complete the Final Title Clear event. If title is not cleared, your office will need to contact the Liaison and provide explanation via VendorScape or Desktop.

Soldier and Sailor Civil Relief Act

STEP	ACTION
1	Attorney: Your office is required to confirm the borrower’s military status for every loan referred/transferred to your office, by checking the DOD website, a minimum of two times throughout the foreclosure process: - Immediately (within 24 hours) upon receipt of the foreclosure referral/ file transfer to your office 24 business hours prior to the day of sale
2	Attorney: To complete the review, follow the below process:
3	Review the DOD website (the review is only required for mortgagors that are on the Note)
	Upload a copy of the DOD website results to VendorScape or Desktop (A minimum of two times, as indicated above). The DOD results need to have the mortgagor’s social security number blacked out before uploading to Desktop (the last four of the SSN is acceptable to remain). In Desktop, select Add Docs from the Tool Menu and upload under Department of Defense. In VendorScape, this should be done by completing the corresponding DOD task for the review in which you are completing (the task will prompt you to upload the DOD results): - Department of Defense-File Received - Department of Defense-24 Hour Presale Check
4	If the borrower is NOT on Active Duty, or has NOT been discharged within the last 12 months, perform the following: Enter the FCLDOD (DOD WEBSITE VERIFIED CONFIRMED MILITARY STATUS) log code on the FOR2 screen in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
5	If the borrower is on Active Duty Enter log code FCLD01 on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
6	If the borrower is not Active duty BUT was discharged within the last 12 months Enter log code FCLD02 on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
7	If the DOD website is showing active duty, discharged within the last 12 months, or if communication is received advising mortgagor may be on active duty, send an email to smcra@wellsfargo.com and open an issue in Desktop, or place the file on hold in VendorScape stating the file needs to be placed on hold for Soldiers and Sailors Relief Act or

	HERA. - Email Subject Line to include: (Client, Loan Number, SCRA) - Body of email to include: If documentation from DOD website: Upload a copy of the supporting information received from the DOD website. If communication is received, provide the following: Name, Phone Number, and Email Address of the person who provided the information. - In Desktop, open issue FC Soldier and Sailors Relief Act for Servicer to place file on hold if the mortgagor is active duty or discharged with the last 12 months, until further instructions are received. - If no response received within 5 business days, email foreclosurescra@wellsfargo.com - If the mortgagor contacts your office: - Refer the Mortgagor to the Special Loans area within Wells Fargo: (866) 936-7272 - Request a copy of the orders from the Mortgagor - Fax the orders to (803) 396-6085, Attn: Special Loans - Or send them through U.S. mail to: Wells Fargo Home Mortgage Attn: Special Loans/SCRA 3480 Stateview Blvd. Mac# X7802-017 Fort Mill, SC 29715 ***Please Note***Uploading the DOD results is required at each point regardless if the sale is to be postponed or cancelled, i.e., if the U20 F/C SCHEDULED SALE DATE still reflects the sale that will be postponed/cancelled and you are at a review point, this must be done.
8	WFHM SCRA Team: Contact mortgagor directly for protection
9	WFHM Foreclosure: provide a response to Attorney of direction that WFHM will take on the property (i.e., putting file on hold or continuing with foreclosure action).

Reports:

Liaison – Not Eligible for Sale: Provides a list of loans with a U20 actual date within the next 7 days where the Attorney has entered FCNESL log code (Action Required).

Attorney- SCRA Audit: A weekly audit to ensure that you are completing the review at each stage: Referral, Sale Scheduled, and Sale Held. A report will be sent to you containing all loans that failed at each stage either by not entering the FCLDOD, FCLD01, FCLD02 log code, or by not uploading the DOD results.

HAMP 10-2 Certifications

If certification is required, your office is responsible for ensuring the required Treasury certification is received prior to proceeding to sale. See [Loss Mitigation](#).

Title

The Attorney is responsible for ensuring that Wells Fargo has clear and marketable title.

****Please note**** If you identify a manufactured/mobile home via a title search, or from the VendorScape or

Desktop documentation provided along with the referral, please see the [Manufactured/Mobile Home Title Issue](#) section of this guide.

STEP	ACTION
1	Attorney: Once the title report is received, enter the actual date for step U52 - "Preliminary Title Recvd".
2	If the Title Report is clear, enter the actual date for step U98 – "Preliminary Title Clear."
3	Prior to sale, review title again and enter the actual date for U99-"Final Title Clear." This informs Wells Fargo that we have clear title.

****Please Note**** The required steps can be completed through VendorScape or Desktop. These steps are part of the Foreclosure template; however, the actual date can be completed in VendorScape or Desktop.

For Vendorscape:

STEP	ACTION
1	Under Task, choose "Add"
2	Then, "Production Task – Preliminary Title Received"
3	When adding the event in VendorScape, the U52 – Preliminary Title Recvd, and entering the actual date, it automatically will be updated in MSP.

STEP	ACTION
1	Under Task, choose "Add"
2	Choose "Production Task – Clear Title".
3	When adding the event in VendorScape the U98 – Preliminary Title Clear and entering the actual date, it automatically will be updated in MSP.

STEP	ACTION
1	Under Task, choose "Add"
2	Choose "Production Task – Final Title Clear"
3	When adding the event in VendorScape the U99 – Final Title Clear and entering the actual date, it automatically will be updated in MSP.

For Desktop:

STEP	ACTION
1	Complete the Preliminary Title Received event in Desktop, this automatically will complete the U52 step in MSP.
2	Complete the Preliminary Title Clear DDF in Desktop, this automatically will complete the U98 step in MSP.
3	Complete the Final Title Clear event in Desktop, this automatically will complete the U99 step in MSP

Reports

Attorney – Title Received, Not Cleared: Weekly report of all loans where your office has acknowledged it has received preliminary title but has not entered an actual date for U98 step. (Action Required)

Liaison – Title Received, Not Cleared: Weekly report of loans where the Attorney has entered a U52 step with

an actual date but the U98 step has not been completed and it has been more than 14 days. (Action Required)

****Please note****If a lien release or subordination is needed, please see [Appendix R](#).

IRS Lien

In Desktop, if your office determines that there is an IRS lien preventing the foreclosure from proceeding, the IRS Lien Present Issue needs to be raised.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Add Issue
3	Select the "FC IRS Lien Present" option.
4	Enter the expected end date and provide the amount of the lien and curative options (if applicable).
5	If the IRS lien does not affect the foreclosure from proceeding, add a note advising of lien.

Title Issues

A title issue can prevent Wells Fargo from taking title to a property that we foreclose on and can be a serious problem. It is the Attorney's responsibility to resolve all title issues. In the event you are unable to do so, you will need to complete the following steps.

Attorney:

When a title issue is identified and your office needs documents in order to facilitate the claim:

STEP	ACTION
1	Insert step 535 (Title Doc Req'd from WFHM) into MSP and complete with the current date (step needs to be entered manually on Desktop files).
2	Send an email to FCLTITLEMAILBOX@WELLSFARGO.COM indicating which documents are needed

When a title claim is being filed , ALWAYS perform the following steps:

STEP	ACTION
1	Insert step 536 (Title Claim Filed) into MSP and complete the date with the date the claim was sent to the title company (step needs to be entered manually on Desktop files). If the title issue can be resolved via judicial foreclosure and/or adding a reformation count to the foreclosure, please ensure this is communicated to the title company with your title claim along with a quote for fees/costs, in an effort to expedite movement of the foreclosure action
2	Provide a copy of the title search providing detailed information with regard to the cloud on title, including documents identified as a title issue. A copy of the commitment, title policy, and HUD-1 also should be provided with the claim letter, if applicable.
3	Upon acceptance of coverage from the title company, insert step 538 (Title Claim Accepted) in MSP and complete the date with the date that correspondence was received indicating they are accepting coverage (step needs to be entered manually on Desktop files). Because formal coverage determinations are not always distributed, you may utilize this step when any correspondence is received from the title company confirming that curative

	measures are in process.
4	If within the course of the resolution of the title issue it becomes apparent that the title issue will delay the foreclosure, enter the D52/D53 steps (see below) at that time and enter a message detailing the change in action
5	When the title claim is resolved, please insert the T66 step into the FOR3 screen in MSP to confirm that the title issue has now been resolved.
6	If a title issue is being cured throughout the foreclosure action, the D53 step is completed because the title issue is not delaying the sale; however, the T66 step should remain open until judgment is entered and the action is not disputed due to title.

When a title claim is filed and it will cause a delay to the foreclosure action and you cannot proceed until cured:

STEP	ACTION
1	Follow the above title claim steps
2	Contact your liaison through VendorScape or Desktop and provide all information pertaining to the title issue, with detailed chronology and recommendations for resolution in VendorScape or Desktop
3	On the FOR3 screen in MSP, enter the step D52 TITLE PROBLEM and complete the actual date with the current date and enter the step D53 TITLE PROBLEM RESOLVED with a float set at 30 days from the actual date of the D52 step (this will alert your office to follow up on the title issue).
4	For VendorScape , proceed to Step 5 For Desktop, proceed to Step 7
5	For VendorScape referrals, under Task, select Add
6	Select "Production Task-Legal/Title Problem." When this task is added, both the D52 and D53 automatically are mapped to MSP. The D53 step will map over as an open step; do not complete the actual date until the title issue is resolved. Proceed to Step 13
7	For Desktop referrals, go to the File Transfer Form on the Tool Menu and launch the FC_Title_Issue_Direct_Source or FC_Title_Issue_InHouse_Referred or FC_Title_Issue_InHouse_Non_Referred process.
8	Complete the Title Issue Found DDF. The Desktop file also will need to be placed on hold if the title issue is preventing your office from proceeding with the foreclosure.
9	Complete the Title Issue Found DDF. The Desktop file also will need to be placed on hold if the title issue is preventing your office from proceeding with the foreclosure.
10	Select Holds from the Tool Menu
11	Select "FC Title Issue" as the hold reason.

11	Provide a brief description of the title matter, how the matter can be best resolved, and the amount of fees requested to cure.
12	Upload a copy of the actual title report to imaging along with a title worksheet describing the problem and the breakdown of fees. This procedure is only to be used if the Title Issue is delaying the foreclosure
13	Your office will need to provide updates on the title issue every 30 days until the issue is resolved.
14	Once the title issue is resolved, enter the actual date for step D53 in MSP with the date the issue was resolved.
15	Provide a detailed explanation in VendorScope or Desktop as to how the issue was resolved
16	Notify the Liaison of any title issues that either cannot be resolved prior to sale or cannot be addressed by your office.

*****Please note***** If the title issue is solely a government seizure or forfeiture, the D52/D53 steps should not be utilized to measure the delay timeframe. Please see Litigation on how to handle appropriately.

When title curative documents need executed that is directly related to a title issue:

Foreclosure Title is expanding their processes to include execution of Title Curative Documents needed for Active Foreclosures. Please start following the below process immediately for execution of the following types of documents:

- Verified Complaint to Quiet Title, Reformation Complaint for Title Curative Measures
- Complaint for Declaratory Relief to cure a title issue
- Non Figure Affidavits for Title Curative ONLY
- Affidavit for Motion for Summary Judgment/Default Judgment for TITLE CURATIVE ONLY
- Corrective/Scrivener's Error Affidavits to Cure Title Issues ONLY
- Consent to Change Attorney (substitution of Title retained counsel in place of foreclosure counsel in the title litigation)
- Partial Releases which are title issue related ONLY for release of a portion of a legal description to cure title
- Proof of Loss Affidavits needed by the title company

If you have a document that falls in the above parameters that is in Active Foreclosure and needs to be executed in order to move forward with the Title Litigation please follow the below procedure.

STEP	ACTION
1	Email the Document in WORD FORMAT to FCLTITLEMAILBOX@WELLSFARGO.COM
2	Ensure any referenced exhibits, including any origination documents are attached with the initial notification
3	Provide details regarding the purpose for execution of the document and the title issue causing the litigation
4	Provide a specific contact to forward the executed document to including the following: Name of person to send executed document Contact for any questions related to the document/exhibits – Phone/Email/Name Email Address

	Firm Name Physical address for overnight mailing Specify if they are title counsel or Direct Source (FC) counsel Pertinent timeframes or urgency if the document is needed as a RUSH **Please Note** Any REVERSE mortgage document to be executed cannot be executed by the FCL Title group. These requests should be forwarded to the following email address with Reverse Mortgage in the subject line of the email: RMSLossMit@wellsfargo.com

If you are unable to file a claim to clear the title issue due to coverage not purchased at origination or the defect is not a claimable item, and proceeding with a judicial foreclosure vs. a non judicial action would cure the title defect:

STEP	ACTION
1	In VendorScape, request from your foreclosure Liaison/Overallowables mailbox to proceed with a judicial foreclosure action. In Desktop, raise the Judicial Action Needed Issue by going to the Tool Menu, Add Issue.
2	Insert step 541 JUDICIAL FCL REQUESTED in MSP and complete the step with the date approval was requested. Insert step 542 JUDICIAL FCL APPROVED in MSP and leave the actual date blank until approval is received.
3	Once approval is received, complete the 542 JUDICIAL FCL APPROVED step in MSP.
4	If the title claim is DENIED , insert the step 539 TITLE CLAIM DENIED in MSP and complete the actual date with the date of the denial.
5	Notify the DOS team in Frederick at DefaultLitTeam@wellsfargo.com and add the log code FCTCDN (TITLE CLAIM DENIED, FORWARDED TO DOS) onto FOR2 in MSP
6	If submitting a claim for reconsideration after a denial is received, please include specific details such as local statutes, documents, etc., that are necessary to defend reasoning for the reconsideration of the claim.

Other Title Issues that DOS handles and should be made aware of if any of the below are present:

	OTHER TITLE ISSUES/ACTION
1	Title Company paying policy limits Add log code FCTCPL (POLICY LIMITS PAID, FORWARDED TO DOS) to FOR2 in MSP or Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
2	Lien Released in Error
3	Bankruptcy Title Claim
4	Complex title issues that need assistance from lender - Contact DOS via the DefaultLitTeam@wellsfargo.com email box and include in the email: - Firm Name, Attorney Contact, Telephone Number, Email Address - Wells Fargo Loan Number (including MSP client #), Property Address, and Borrower's Name - Foreclosure Liaison Name and Telephone Number - Hearing Date, Location, and Time - Detailed Information of the Issue - Copy of pleadings as an attachment

Reports

Attorney – Title Issue Discovered, Not Resolved: Weekly report all loans where your office has identified a title issue and it has not been resolved. The loans will continue to show on the report until the title issue is resolved and step D53 – TITLE ISSUE RESOLVED is updated with the date it was resolved.

Manufactured/Mobile Home Title Issues

Manufactured/Mobile Home Issues will be resolved with the conversion of personal titled property to real property and if applicable cancellation/de-titling. Conversion may take a minimum of 1 to 3 months and a maximum of 9-12 months. Factors that affect conversion include state regulations, Department of Motor Vehicles, and cooperation from the county recorder and county assessor. If you are notified of a manufactured/mobile home issue via a title search, or identify from your VendorScape or Desktop document review that the dwelling may be a manufactured/mobile home, your office will need to contact the appropriate department.

**** Effective 02/01/2009, Most Mobile/Manufactured Home title issues will be directed to the Manufactured Home Conversion Team (MHCT) in Frederick.****

Exceptions:

- a) Post Sale FHA - contact FHApostsalemhresearch@wellsfargo.com
- b) Post Sale VA - contact Porfiria Gonzalez at porfiria.m.gonzalez@wellsfargo.com
- c) Wells Fargo Financial - contact WFFREFCLTitleIssues@wellsfargo.com
- d) Wells Fargo Home Equity - contact REOWFHE.SHAREDMAILBOX@wellsfargo.com

FHLMC Loans/ Non-FHLMC Loans

STEP	ACTION
1	Attorney: Contact Wells Fargo MHCT immediately via the following email address: Manufactured.HousingConversionTeam@wellsfargo.com, and advise WF of a possible mobile home title issue. If known, please provide the status of title, VIN number, year, make, and model. The MHCT processor will review the case and respond accordingly. Insert step N92, ATTY Identified MH ISSUE, on FOR3 and add the actual date. **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task – Atty Identify Mobile Home Issue." When adding the event in VendorScape the N92 – Atty Identified MH Issue automatically will be placed into MSP. For Desktop referrals, go to the File Transfer Form on the Tool Menu, launch the FC_Mobile_Home_Research_Direct_Source or FC_Mobile_Home_Research_InHouse_Referred or FC_Mobile_Home_Research_InHouse_Non_Referred process and complete the Mobile Home Issue Found DDF
2	MHCT Processor: Upon complete review, determine if the mobile home issue will be handled in house or if Attorney assistance will be needed. If foreclosure counsel is retained to cure the title issue, enter N93, ATTY HANDLING MH ISSUE on the FOR3.
3	Attorney: MHCT may contact your office to conduct a search of the DMV records to confirm current status of the title. It may request that you handle the issue on Wells Fargo's behalf. Fee approval for any MH title work will need to be obtained from the MHCT processor.
4	Attorney: If retained to cure title issue, please submit approximate fee amount for approval directly to the MHCT processor. <u>Fee approval must be obtained from the MHCT processor</u>
5	<u>Attorney * SUBMIT MH INVOICES TO ICLEAR AS REPLEVIN *</u>
6	Liaison: Direct all MH Title inquires to the MHCT mailbox –

Manufactured.HousingConversionTeam@wellsfargo.com

NOTE: It is a requirement in the state of Alabama and Texas that we **DO NOT** precede to sale until the mobile home is converted to real property. All other states may proceed with the sale unless it is verified that it is more beneficial to cure pre-sale. (This must be agreed upon by the MHCT processor and the attorney)

Questions regarding MHCT or these MH title processes please contact:
Kristi.Payne@wellsfargo.com and Aysem.P.Pelletier@wellsfargo.com

Cash Processing

Corporate Advance Breakdown

In Desktop, if your office is in need of a breakdown of the corporate advances, the Corporate Advance Breakdown issue needs to be raised.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Add Issue
3	Select the "FC Corporate Advance Breakdown Needed" issue.
4	Enter the expected end date and the total amount that needs to be broken down and from where this amount originated.

Escrow Breakdown

In Desktop, if your office is in need of a breakdown of the escrow balance, the Escrow Breakdown Needed issue needs to be raised.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Add Issue
3	Select the "FC Escrow Breakdown Needed" issue
4	Enter the expected end date and the total amount that needs to be broken down and from where this amount originated.

Suspense

STEP	ACTION
1	Attorney: A report will be sent to our office daily of all loans where there are funds in suspense. Your office is required to provide a response on these loans within 48 hours of receipt of the report. You will provide a response by entering one of three log codes. • FCSBAF: Fort Mill to apply suspense funds • FCSBKF: Fort Mill to retain suspense funds • FCSBRF: Fort Mill to return suspense funds **Please note** These log codes can be added in MSP on the FOR2 screen or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.

2	WFHM Cash Processing Team: Process suspense funds in accordance to the direction received from the Attorney. **Please note** If there is an upcoming foreclosure sale, the loan must be log coded <u>5 days</u> prior to the foreclosure sale in order for the funds to be either returned or applied.

*****Please Note***** You must wait 72 hours to request a reinstatement quote if your office has coded a file to return suspense funds.

Reports:

Attorney – Suspense Balance: Daily report of all loans showing a suspense balance where no log code (FCSBAF; FCSBKF; FCSBRF) has been entered on the FOR2 screen in MSP since the funds were received.

Payoffs

STEP	ACTION
1	Attorney: submit all requests for payoff quotes through VendorScape or Desktop. The VendorScape CMS Attorney User guide will provide your office with specific instructions for requesting payoff figures. For Desktop Referrals
2	Select Payoff Request from the Tool Menu
3	Select New Payoff Request
4	Enter a Good Thru Date (this tool should be used on the main foreclosure process). The Quote will be provided in the notes and a copy of the Payoff will be provided in the document section.
5	Complete Payoff received by Attorney step to acknowledge receipt of quote.
	Attorney must then review and close the "FC Payoff Requote" issue type. The average turn-around time to receive a quote is 24 hours. Please note these procedures also apply to Client 708 Wells Fargo Financial loans. *** Please Note*** Make sure all payoff requests submitted through VendorScape are requested as detailed payoffs whether you are prompted to do so or not. Note that any requests NOT requested as detailed payoffs, will not be pulled by our system and will remain in VendorScape without being pulled for processing. Any requests that ARE requested as detailed payoffs will be pulled twice daily, once at 7 a.m., and once at 1 p.m. Central time. • If VendorScape or Desktop cannot be utilized or there is a need for a rush request to be completed, requests should be sent to payoffs@wellsfargo.com. • Once you receive the quote, include your total fees/costs (recoverable versus non-recoverable) in compliance with state laws. • Review all payoff quotes sent by Wells Fargo to ensure compliance with state or federal law regarding collection of late charges, fees, and prepayment penalties. If figures are not in compliance, make the necessary corrections, or contact Wells Fargo for clarification immediately. • Provide a written copy of the payoff figures to the mortgagor within 24 hours of receipt. • Your office is required to upload a copy of the payoff figures or reinstatement figures you provided the mortgagor the same day into VendorScape or Desktop. • Enter step E13, PAYOFF PROVIDED GOOD THRU, on FOR3 with the actual date as the date the payoff was GOOD THRU and document the FOR2 screen in MSP

	with the quote. If the quote was requested through Desktop, this step automatically will be completed. **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task – Payoff Provided Good Thru." When adding the event in VendorScape the E13 – Payoff Provided Good Thru automatically will be placed into MSP. • The date quotes are good through should not exceed 1 day prior to sale or redemption date or 30 days from the date of request, whichever is applicable. Payoff quotes never should be quoted beyond these dates without prior approval of the Wells Fargo Foreclosure Department. • If you receive an updated quote from Wells Fargo, provide a payoff quote to the mortgagor or authorized third party within 24 hours of receipt and upload a copy of the quote to the Document section in VendorScape or Desktop. (Wells Fargo & Company previously has authorized the third party to receive the payoff quote)
6	WFHM Cash Team: Provide payoff quotes to Attorney on quotes that cannot be processed through VendorScape or Desktop and provide an updated quote to Attorney when additional disbursements have been made.

Reinstatements

Attorney: submit all requests for reinstatement quotes through the reinstatement history case link within VendorScape or the Reinstatement Request tool in Desktop (this tool should be used on the main foreclosure process). The VendorScape CMS Attorney User guide will provide your office with specific instructions for requesting reinstatement figures. Please allow 24 to 48 hour turn-around time to receive a quote. **Please note these procedures also apply to Client 708 Wells Fargo Financial loans.** For quick reference, please see the reinstatement request instructions below:

STEP	ACTION
1	Click on reinstatement history case link
2	Click request button
3	Select Quote Type = Standard • If no additional research is required, the quote will appear within 0-60 minutes. If no quote is provided by automation, the user will receive a message that the quote will be provided within 48 hours.
4	Request Quote = Enter Valid FROM (Automatically Default to Today's date) and TO date • Quote should not exceed 30 days from today's date
5	For Desktop referrals,
6	Select Reinstatement Request from the Tool Menu
7	Select New Reinstatement Request
8	Enter a Good Thru Date The quote will be provided in the notes and a copy of the reinstatement will be provided in the documents section. Complete Reinstatement Quote Received by Attorney step to acknowledge receipt of the quote.
9	Submit requests to foreclosurereinstatements@wellsfargo.com if the following conditions are met:

	- Initial VendorScape or Desktop request has not been received within 48 hours - Rush Request Needed - Subject Line to include (RUSH: client, loan number and good through date) - For Wells Fargo tracking purposes, the body of email to include, the reason for rush request
10	Review quote. Include your outstanding fees and costs, clearly itemizing recoverable versus non-recoverable items. If item is marked as non-recoverable, provide state statute or reason to support mortgagor non-recoverability.
11	Review all reinstatement quotes sent by Wells Fargo to ensure compliance with state or federal law regarding collection of late charges, fees, and prepayment penalties. If figures are not in compliance, make the necessary corrections, or contact Wells Fargo for clarification immediately.
12	Enter step E14, REINSTATEMENT PROVIDED GOOD THRU, on FOR3 with the actual date as the date the reinstatement was GOOD THRU and document the FOR2 screen in MSP with the quote. If the quote is requested through Desktop, this step will be automatically completed. **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task – Reinstatement Provided Good Thru." When adding the event in VendorScape the E14 – REINST Provided Good Thru will automatically be placed into MSP.
13	Provide a written copy of the reinstatement figures to the mortgagor/3rd party within 24 hours of receipt.
14	Upload a copy of the reinstatement letter your office provided to the mortgagor/3 rd party requestor into the documents sections of VendorScape or Desktop.
15	Post Sale Reinstatement Requests: Please provide investor authorization along with the reinstatement quote request.

*****Please Note***** You must wait 72 hours to request a reinstatement quote if your office has coded a file to return suspense funds.

Payoff / Reinstatement Proceeds

Attorney: Payoff/Reinstatement proceeds must be in the form of certified funds payable to "Wells Fargo Bank N.A." and sent via overnight mail within 24 hours of their receipt.

STEP	ACTION
1	Do not deduct your fees and costs from the funds prior to remitting the funds to Wells Fargo.
2	Do not send funds through the U.S. Postal Service or include them in envelopes containing status-related items.
3	Include a copy of the quote provided to the mortgagor or authorized third party. The form in Appendix C of this manual should be completed and included with the funds and quote, and uploaded in VendorScape or Desktop.
4	Enter step T78, REIN/PO \$ RCVD @ ATTY OFFICE, on FOR3 with the actual date as the date funds were received. **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task – Reinstatement/Payoff \$ Received at Attorney Office". When adding the event in VendorScape the T78 –REIN/PO \$ Rcvd @ Atty Ofc automatically will be placed into MSP. For Desktop referrals, select File Transfer Form from the Tool Menu, and choose FC_Payoff_Reinstatement_Funds_Received_Direct_Source or

	FC_Payoff_Reinstatement_Funds_Received_InHouse_Referred or FC_Payoff_Reinstatement_Funds_Received_InHouse_Non_Referred from the drop down menu. Complete the DDF and the actual date for the step. This will update the T78 step in MSP. If you remove the U20 step, remove the N36 and/or U31 step as well.
5	Overnight the payoff funds to the Wells Fargo to the attention of: Wells Fargo Home Mortgage or America's Servicing Co Attn: Payoffs Mac – X2302-045 1 Home Campus Des Moines, IA 50328
6	You may also wire the payoff funds to Wells Fargo using the following instructions. This account information is not to be shared with anyone outside of your office. (Your office is required to upload the supporting documentation the same day in VendorScape or Desktop) Wells Fargo Bank, N.A Beneficiary Bank ABA: 121000248 Beneficiary Bank Acct: 4127400093 Special Information for Beneficiary Apply funds to loan: xxxxxxxxxxxx Mortgagor: xxxxxxxxxxxxxxxxxxxx Sender's Name and Phone Number
7	Overnight the reinstatement funds to the Wells Fargo to the attention of: Wells Fargo Home Mortgage or America's Servicing Co Attn: Foreclosure Cash Mac – X2302-04C 1 Home Campus Des Moines, IA 50328
8	Your office may also wire the reinstatement funds to Wells Fargo using the following instructions: This account information is not to be shared with anyone outside of your office. (Your office is required to upload the supporting documentation the same day in VendorScape or Desktop) Wells Fargo Bank, N.A Beneficiary Bank ABA: 121000248 Beneficiary Bank Acct: 3000500412 Special Information for Beneficiary Apply funds to loan: xxxxxxxxxxxx Mortgagor: xxxxxxxxxxxxxxxxxxxx Sender's Name and Phone Number

Payoff Resolution

From time to time, a team member from the Wells Fargo Home Mortgage payoff resolution team will reach out to your office to assist in collecting our payoff shortage. Your office is expected to contact the mortgagor or third party on behalf of WFHM to resolve the payoff shortage. The WFHM payoff resolution team member will provide your office with the specific reason(s) for the payoff shortage.

Payment History

From time to time, a borrower may dispute the application of payments on his/her loan. Your office is responsible for reviewing the P309 screen within the MSP system to determine payment application. The P309 will house all applied payments and disbursements associated with the loan for a period up to 36 months. To view total number of screens available, press F10. **Please note these procedures also apply to Client 708 Wells Fargo Financial loans.**

If your office requires additional payment information, you will need to add **log code FCPHCA** (PAY HISTORY NEEDED FOR CORP ADV) on the FOR2 screen or in Desktop to notify your liaison to request microfiche and detail the date range you are requesting in a message in VendorScape or Desktop.

To enter the log code in Desktop, perform the following:

STEP	ACTION
1	Select Add Note from the Tool Menu
2	Select Note Type Foreclosure
3	Enter the log code in the MSP log code field. Once the liaison has requested the microfiche, he or she will add log code FCMFRQ to the FOR2 screen.

To request the foreclosure payment history in Desktop, the Copy of Payment History should be raised.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Add Issue
3	Select the "FC Copy of Payment History" issue
4	Enter the expected end date and provide the reason the history is needed, if there are specific payments in question, how far back the payment history should go, and if there has been a formal complaint regarding the payments.

****Currently, this does not add the payment history log code and will need to be entered manually.**

The Payment Research/Dispute issue should be raised if the borrower is questioning a payment applied to their account, disputing amounts owed or applied, or when there is proof of payments that were not properly applied.

STEP	ACTION
1	Select Issues from the Tool Menu
2	Add Issue
3	Select the "FC Payment Research/Dispute" issue
4	Enter the expected end date and provide details of the issue.

Liaison: All requests must be placed within 48 hours of the attorney entering the FCPHCA log code.

STEP	ACTION
1	To request additional history for client 472, 591, 685, 708 and 936 loans, email m@wellsfargo.com • To request additional history for client 106 sent email request to: 106EscalatedCustService@wellsfargo.com - o Request requirements ▪ Histories – Start and end date (years only) ▪ Collection notes – Start and end date ▪ OLLW – Letter ID and the date the letter was sent (example: WC101 on 7/20/01) ▪ Letter logs – Years needed

	▪ 1098 – Years needed ▪ Analysis – Date that the analysis was processed o For WAMU requests (client 936) we will need the following information: ▪ WF loan number ▪ WAMU loan number ▪ Acquisition ID ▪ Name of the mortgagor ▪ Specific dates for letters, histories, collection notes & analysis
2	Once request is placed, enter log code FCMFRQ (SENT EMAIL TO MICROFISHE TO REQ PAY HISTORY). When the microfiche is received, forward to attorney and enter log code FCPHST (PAY HISTORY SENT TO ATTY).

Reports:

Liaison – Pull Pay History: Daily report of all loans where the attorney has entered the FCPHCA log code but there is no FCPHST log code. (Action Required)

Cpi6 - myEXTRA! Enterprise

File Edit View Tools Session Options Help

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Number of Screens listed before pressing F10.

Cpi6 - myEXTRA! Enterprise

File Edit View Tools Session Options Help

P309 1... 0007425209 MORTGAGE LOAN HISTORY 11-29-07

NAME CI INV-LN DUE 11-01-07 TYPE 12

BR FV MAN L P-TYPE 1 INT .0850000 FIRST PB 8,857.61 2ND PB .00

HUD .00 NET 360.84 SF .00440000 SUSP 237.75 STOP D B P F N A D L

REP .00 RES .00 9 0 0 0 0 L 0 0

APP 11-14 11-14 10-31 10-24 10-24

DUE 11-07 00-00 10-07 09-07 08-07

TYPE/TRAN 3 12 6 31 1 73 1 73 1 73

AMOUNT 1,152.18- .00 529.78 .00 .00

PRIN-PD .00 .00 159.67 158.54 157.43

PRIN-BAL 8,857.61 8,857.61 8,857.61 9,017.28 9,175.82

INT-PD .00 .00 63.87 65.00 66.11

ESC-PD 1,152.18- .00 137.30 137.30 137.30

ESC-BAL 648.28 1,800.46 1,800.46 1,663.16 1,525.86

A&H-INS .00 .00 .00 .00 .00

LIFE-INS .00 .00 .00 .00 .00

LC/FEES .00 .00 .00 .00 .00

MISC-PD .00 .00 .00 .00 .00

ADV-BAL .00 .00 .00 .00 .00

SUSP .00 .00 168.94 .00 .00

SC/PAYEE 09033 SE-FIRST * * *

PAGE 001 OF 024 TOTAL TRANS AVAILABLE 0119 OLDEST TRAN 01-05-05 /P

4B :00.4 23/70

Connected to host fidelity 1-3270.wellsfargo.com [10.28.13.215] (T4722252)

Number of Screens listed after pressing F10.

Fee Approval Requests

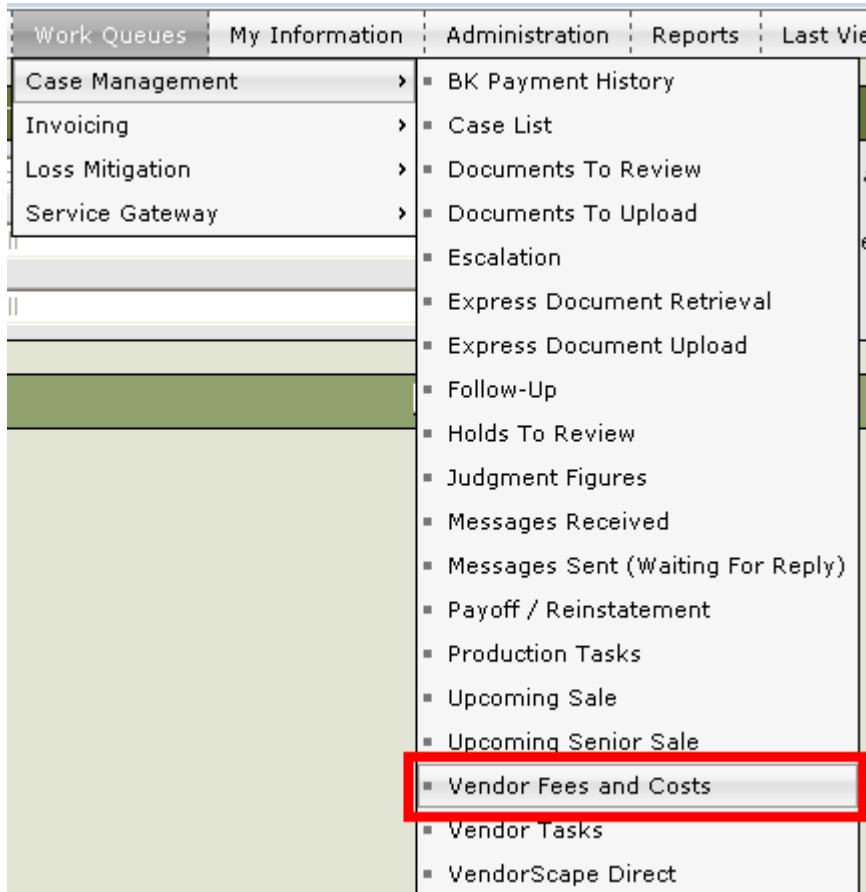
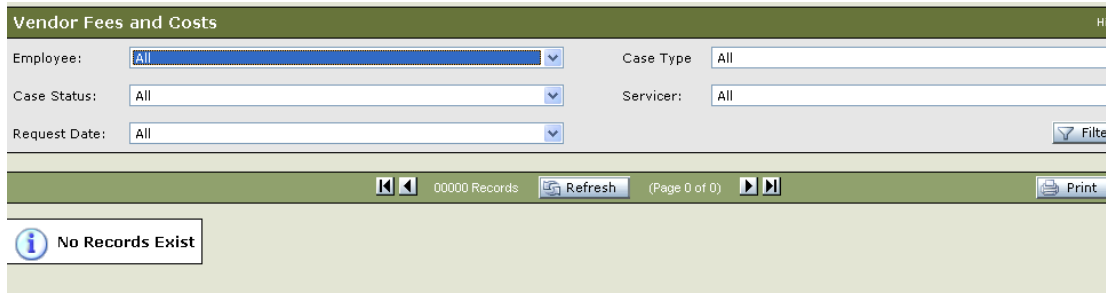
****Please note**** Your firm must have received approval from your liaison to perform the services before requesting fees.

STEP	ACTION
1	Attorney: Refer to the Blanket Fee Approval matrix (Appendix S) before requesting fees from Wells Fargo. If fee allotment is not included in the Blanket Fee Approval matrix, please follow the process below: • FNMA/FHLMC Designated counsel – obtain fee approval directly from FNMA/FHLMC. Send all other fee requests via VendorScape to the FC_Overallowable_Fee Request. For Desktop Referrals, go to the File Transfer Form on the Tool Menu, add the FC_Additional_Fees_Costs_Needed_Direct_Source or FC_Additional_Fees_Costs_Needed_InHouse_Referred or FC_Additional_Fees_Costs_Needed_InHouse_Non_Referred process and complete the DDF. • Non FNMA/FHLMC Designated counsel – send all fee approval requests via VendorScape to FC_Overallowable_Fee Request. For Desktop Referrals, go to the File Transfer Form on the Tool Menu, add the FC_Additional_Fees_Costs_Needed_Direct_Source or FC_Additional_Fees_Costs_Needed_InHouse_Referred or FC_Additional_Fees_Costs_Needed_InHouse_Non_Referred process and complete the DDF. • Provide detailed information, including a complete breakdown of work to be performed. • If you are requesting fee approval for a restart, confirm that you have entered the correct steps before requesting fee approval (see Foreclosure Restarts). • If the loan is closed in VendorScape or Desktop, send fee approval to fcfeeapprovals@wellsfargo.com.
2	WFHM: Respond back via VendorScape or Desktop notating the system with fee approval and include the following information: • Approval/Denial and Reason for denial if applicable

Fees and Costs Request through VendorScape Automation

Automation has been developed to allow Wells Fargo to request Fees and Costs from the Attorney office in bulk via the Vendor Fees and Costs Module within VendorScape.

STEP	ACTION
1	Attorney: To obtain Fees and Costs requested, navigate to Work Queue>Case Management>Vendor Fees and Costs

	 The screenshot shows a navigation pane with tabs: Work Queues, My Information, Administration, Reports, and Last View. Under 'Work Queues', there is a list of items: Case Management, Invoicing, Loss Mitigation, Service Gateway, and a scrollable list. The 'Vendor Fees and Costs' item is highlighted with a red rectangular box.
2	The Fees and Costs module will display and user can select options from the drop down menu to display their workload.
	 The screenshot shows the 'Vendor Fees and Costs' module interface. It includes filter fields for Employee (All), Case Status (All), Request Date (All), Case Type (All), and Servicer (All). Below the filters is a 'Filter' button. A status bar shows '00000 Records', a 'Refresh' button, and '(Page 0 of 0)'. A message box states 'No Records Exist'.
3	The list will refresh, and the user will be able to view every request for Fees and Costs in the Window. The user has two options to fulfill these requests. The first option is to click on the Green Plus icon. Clicking on this icon will open the Total Vendor Fees and Costs window request within the loan.

4	The second option is to click on the loan itself from the Fees and Costs Module. Click on this to open the Fees and Costs History window within the loan.
5	Clicking on any of the fields on the current line will open the Total Vendor Fees and Costs window request within the loan. **Please Note** The Valid From and To fields are grayed out and not selectable for the User. The Calendar Control has been disabled and Users cannot change this data.

Total Vendor Fees and Costs			
History Save Reset Print			
Totals			
Valid From:	10/06/2009	Valid To:	11/02/2009
	Fees	Costs	Total
Paid:	\$0.00	\$0.00	\$0.00
Unpaid:	\$0.00	\$0.00	\$0.00
Projected:	\$0.00	\$0.00	\$0.00
Total:	\$0.00	\$0.00	\$0.00
Special Instructions:			

6 Once the fields pertaining to the Fees and Costs have been filled in the user will then hit the Save button. When the Save button has been pressed, VendorScape will update the Fees and Costs History, and write the data back to the LMTN screen.

Fees and Costs Request through Desktop

STEP	ACTION
1	Review your fees and costs queue.
2	Select Details and provide the requested fees and costs by completing the fees and costs form.

Sales, Post-Sale, and Closing File

Sales Results

STEP	ACTION
1	Attorney: Your office is responsible for reporting sales results by 4 p.m. Eastern the same day the sale is held, and monitoring the loan during confirmation, redemption, or ratification. For attorneys on the West Coast whose sales are not held until the afternoon, provide sales results by 6 p.m. Eastern or 9 a.m. Eastern the next business day. If you are not able to meet the required deadline for reporting the sale, you are required to provide a detailed explanation for the delay in VendorScape or Desktop.
2	In the event that your office is unable to adhere to the established sales results reporting guidelines, Wells Fargo Home Mortgage expects the following detail at the time of reporting. - Detailed explanation to support the reason for the reporting delays - Detailed action plan outlining the steps taken and controls established to prevent future occurrences of late sales reporting
3	You are also responsible for reporting confirmation expiration (T39) or redemption expiration (T38) when the event occurs.
4	VendorScape Referrals: <u>If Foreclosure Sale – Reverted Back to Beneficiary:</u> - Complete the Sale Held Event Task in VendorScape - Sale Type to clearly indicate: "Sold back to the beneficiary"

	- o Do not indicate "Reverted to SENIOR" - o Confirm completion of the actual T32 (Sale Held) step on FOR3 template. Actual date to equal the foreclosure sale date - o Fill in all other applicable sales reporting fields on VendorScape: (Sale Date, Sale Amount, Purchaser Name, Purchaser Phone Number, Actual Bid Amount, Sheriff Appraised Value (if applicable) and Total Eligible Indebtedness including outstanding attorney fees and costs. For beneficiary sale, complete Sale Held event in VendorScape. This will complete step T32, F/C SALE HELD, on FOR3 • <u>If Foreclosure Sale - SOLD to a 3rd Party Bidder:</u> - o Complete the Sale Held Event Task in VendorScape - o Sale Type to clearly indicate: Sold to a 3rd Party - o Confirm Completion of the T32 (Sale Held) step on the FOR3 template - o ADD T35 (Property Sold to 3rd party) to FOR3 template and include the sales date as the actual date - o ADD T36 (Received 3rd party sale \$) step in the FOR3 template. DO NOT complete the actual date **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task – Third (3rd) Party Sale". When adding the event 3rd Party Sale through VendorScape the T35 – Pty Sold to 3rd Party and T36 – 3rd RCV 3rd Party Sale automatically will be placed into MSP. The T36 step will map over as an open step, do not fill in the date; WF will complete this date. • Fill in all other applicable sales reporting fields within VendorScape: (Sales Date, Sale Amount, Purchaser Name, Purchaser Phone Number, Actual Bid Amount, Sheriff Appraised Value (if applicable), Total Eligible Indebtedness (including outstanding attorney fees and costs)
5	Desktop Referrals: • <u>If Foreclosure Sale – Reverted Back to Beneficiary:</u> - o Complete the Foreclosure Sale Held DDF - o Who is the Successful Bidder: "Sold to beneficiary" - o Do not indicate "Reverted back to SENIOR" - o Enter the successful bid amount - o Complete the actual date for the Foreclosure Sale Held event - o Confirm completion of the actual T32 (Sale Held) step on FOR3 template. Actual date to equal the foreclosure sale date • Fill in all other applicable sales reporting fields in Desktop: Sheriff Appraised Value (if applicable) and Total Eligible Indebtedness including outstanding attorney fees and costs. • <u>If Foreclosure Sale - SOLD to a 3rd Party Bidder:</u> - o Complete the Foreclosure Sale Held DDF - o Who is the Successful Bidder: "Sold to Third Party" - o Enter the successful bid amount

	- o Complete the actual date for the Foreclosure Sale Held event - o Go to the Navigation Tree and select the Third Party Sale process. Complete the Sold to Third Party DDF - o Confirm completion of the T32 (Sale Held) and the T35 (Property Sold to 3rd Party) steps on the FOR3 template - o Confirm the addition of the T36 (Received 3rd party sale \$) step in the FOR3 template and that the actual date IS NOT completed. - o Fill in all other applicable sales reporting fields within Desktop: (Sales Date, Sale Amount, Purchaser Name, Purchaser Phone Number, Actual Bid Amount, Sheriff Appraised Value (if applicable), Total Eligible Indebtedness (including outstanding attorney fees and costs) - o
6	Both VendorScape and Desktop Referrals: • For confirmation expiration, complete Foreclosure Sale Confirmed/Ratified event in VendorScape or the After Sale Confirmation Expired event in Desktop. This will enter T39, AFT SALE CONFIRMATION EXP, actual date. • For redemption expiration, complete Post Sale Redemption Expires event in VendorScape or the Post Sale Redemption Expired event in Desktop. This will enter T38, AFT SALE REDEMPTION EXP, actual date. • If there are any additional sale restrictions within your state, enter the corresponding step in MSP with the actual date the event occurred. - o Order Approving Sale T34 - o Possession Expiration E76 (To be completed AFTER the Possession Expiration period expires) - o Strict Title Vest T31 - o Court Approved Sale E87 (To be completed AFTER the expiration period expires) - o Deficiency Sale E68 - o Upset Bid T90-T94

****Please Note**** Completion of the E76 and E87 steps will prompt the post-sale process to begin.

****Please Note**** The required steps can be added through VendorScape.

STEP	ACTION
1	Under Task, choose "Add"
2	Then "Production Task – Order Approving Sale"
3	When adding the event in VendorScape the T34 – Order Approving Sale will automatically be placed into MSP.

1	Under Task, choose "Add"
2	Then "Production Task –Possession Expiration"
3	When adding the event in VendorScape the E76 – Possession Expiration Dt automatically will be placed into MSP.

1	Under Task, choose "Add"
2	Then "Production Task –Strict FC – Title Vested"
3	When adding the event in VendorScape the T31 – Strict F/C (Title Vest) automatically will be

	placed into MSP.

1	Under Task, choose "Add"
2	Then "Production Task –Court Approved Sale"
3	When adding the event in VendorScape, the E87 – Court Approved Sale entry will automatically be placed into MSP.

1	Under Task, choose "Add"
2	Then "Production Task –Deficiency Sale"
3	When adding the event in VendorScape the E68 – Deficiency Sale automatically will be placed into MSP.

1	Under Task, choose "Add"
2	Then "Production Task"
3	Choose corresponding event based on whether this is the 1st upset bid or subsequent upset bids. When adding the VendorScape event, the corresponding step automatically will be placed into MSP. Automatically pulls in on NC loans • 1st Upset Bid • 2nd Upset Bid • 3rd Upset Bid • 4th Upset Bid • 5th Upset Bid

Reports:

Attorney – Sale Pending: Provides list of loans where the U20 actual date is in the past and the T32 actual date has not been updated.

WFHM Compliance – Pending Sales Report: Provides list of loans where the U20 actual date is in the past and the T32 actual date has not been updated.

Updating Sales Results

STEP	ACTION
1	Attorney: If your office needs to modify any part of the sales results after they have been entered, send an email to SaleResults@wellsfargo.com advising of the corrections taking place. If the foreclosure workstation already is closed, this email will alert the team to reactivate FOR3 so your office can complete the necessary steps. • Enter T75, UPDATED SLE RSLTS FRM ATTY, on FOR3 in MSP and complete the actual date. • **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add," then "Production Task – Updated Sales Results Received from Attorney". When adding the event in VendorScape, the T75 – Updated Sale Rslts Frm Atty automatically will be placed into MSP. • Update the Sales Reporting section in VendorScape or Desktop with the correct sales results. - o For Desktop, un-complete the Sale Held event and recomplete the DDF with the correct information. The Sale Results Change issue needs to be raised if there is any change in the sales results. Select Issues from the Tool Menu, Add Issue, and select the "FC Sale Results Change" issue. Provide

	the correct results. The T75 step will need to be added manually. WFHM: Review the Issue and ensure that the proper Sales Results are reported to the Investor. Update the VendorScape tasks.
2	Sales Reporting Team: Re-report the sale, if applicable. - Adjust the 1099, if applicable. - Contact Post Sale Claims to see if any adjustments need to be made.

VA Sales Results

STEP	ACTION
1	Attorney: In addition to the requirements listed above, your office is responsible for providing the following information upon completion of the Sale Held event in VendorScape or the Foreclosure Sale Held event in Desktop for VA loans. - Actual Bid Amount - Sale Results (Beneficiary or 3rd party) - Sale Date - Confirmation/Redemption Date - Sale Amount - Sheriff's Appraised Value at Sale (applies to OH, OK, KY, LA) - Total eligible indebtedness (Must be the true total debt figure. DO NOT enter \$.01, \$1, or specified bid amount.) IMPORTANT: If at any time the sale results cannot be entered into VendorScape or Desktop for any reason (Example: the total debt is less than the principle balance and VendorScape or Desktop will not let you approve it), please complete both of the following: - Send email to Saleresults@wellsfargo.com with "VA Sale Results" in the subject line, and in the body of the email include the client number, loan number, and sale result information (dollar amount and to whom it sold) - Place the sale results in VendorScape or Desktop by sending a message to your liaison. Please put "VA sale results" in the subject line, and in the body of the message include the client number, loan number, and sale result information (dollar amount and to whom who it sold).
2	After Sale Confirmation – Please note that if the property is in a state with a post sale confirmation period, the T39 actual date must be entered timely as the VA requires this information and will penalize the servicer for untimely notification.

3rd Party Sales

Attorney: Upon receipt of third party funds, your office must:

STEP	ACTION
1	Input a detailed message and include the tracking information for shipment of the funds for VendorScape files or complete the Third Party Funds Sent to Servicer DDF in the Third Party Sale process for Desktop files. Complete and upload the Funds Remittance Cover Sheet (Appendix B) into VendorScape or Desktop. To upload to Desktop, select Add Docs from the Tool Menu and upload as Third Party Sale Package.
2	Enter log code FCFUND (ATTY SENT 3RD PARTY FUNDS TO WELLS FARGO CASH

	DEPT) in MSP on the FOR2 screen or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu, then select Note Type Foreclosure, and enter the log code in the MSP log code field. <u>The funds must be forwarded to Wells Fargo the same day as receipt.</u>
3	Overnight the funds to the Wells Fargo Conventional Claims area to the attention of: Attn: Wanda Tucker Mac #X2302-04F Wells Fargo Home Mortgage /Conventional Claims 1 Home Campus Des Moines, IA 50328-0001

3rd Party Default

Attorney:: Should the 3rd party default for any reason, you must update sale results as follows:

STEP	ACTION
1	If after the 3rd party purchaser defaulted and IF, the loan defaulted to the next highest bidder and IF the next highest bidder was another 3rd party purchaser, then: - Complete Sale Held event in VendorScape or the Foreclosure Sale Held event in Desktop providing new sale results. (This will update the T32 actual with the new sale date) - Insert the T47, THIRD PARTY DEFAULTED, step on FOR3 and complete the actual date. For Desktop Referrals, go to the File Transfer Form on the Tool Menu, add the FC_Third_Party_Defaulted_Direct_Source or FC_Third_Party_Defaulted_InHouse_Referred or FC_Third_Party_Defaulted_InHouse_Non_Referred process and complete the Third Party Defaulted DDF. This automatically will insert and complete the steps for you.
2	Invalidate existing Sale Held event in VendorScape. In Desktop, un-complete the Sold to Third Party event in the Third Party Direct Source rail in the Navigation tree and re-complete the step with the new 3rd party purchaser information. Email the Sale Results to the saleresults@wellsfargo.com mailbox as follows: Subject Line to include the following: Client Name, Loan Number, and "3rd Party Defaulted". The body of the email should include the following: reason why third (3rd) party defaulted. The new sales date, where applicable AND/OR the updates sales results.
3	If after the 3rd party purchaser defaulted and IF the loan reverted back to the beneficiary, then: - Complete Sale Held event in VendorScape or the Foreclosure Sale Held event in Desktop providing new sale results. (This will update the T32 actual with the new sale date) - Insert the T47, THIRD PARTY DEFAULTED, step on FOR3 and complete the actual date. For Desktop Referrals, go to the File Transfer Form on the Tool Menu, add the FC_Third_Party_Defaulted_Direct_Source or FC_Third_Party_Defaulted_InHouse_Referred or FC_Third_Party_Defaulted_InHouse_Non_Referred process and complete the Third Party Defaulted DDF. This automatically will insert and complete the steps for you. - Invalidate existing Sale Held event in VendorScape. In Desktop, un-complete the Sale Held event and re-complete the DDF with the correct information. - Remove the T35 and T36 steps from MSP. - Email the Sale Results (saleresults@wellsfargo.com) email box.

	- o Subject Line to include: Client, Loan Number and "3rd Party Defaulted" - o Body of email to include: reason why 3rd party defaulted., the new sales date (when applicable), AND/OR the updates sales results.
4	If after the 3rd party purchaser defaulted and IF a new sales date must be set, then: • Note the Un-complete Sale Held event in VendorScape or the Foreclosure Sale Held event in Desktop. • Insert the T47, THIRD PARTY DEFAULTED, step on FOR3 and complete the actual date. • For Desktop Referrals, go to the File Transfer Form on the Tool Menu, add the FC_Third_Party_Defaulted_Direct_Source or FC_Third_Party_Defaulted_InHouse_Referred or FC_Third_Party_Defaulted_InHouse_Non_Referred process and complete the Third Party Defaulted DDF. This automatically will insert and complete the steps for you. • Invalidate existing Sale Held event in VendorScape or un-complete the Foreclosure Sale Held event in Desktop. • Provide the actual sales date • For VendorScape referrals, remove the T35 and T36 steps and remove the T32, U20, U31 and N36 actual dates from MSP. • For Desktop referrals, remove the T35 and T36 steps from MSP and update the Foreclosure Scheduled Sale Date. This will update the bid events. • Email the Sale Results (saleresults@wellsfargo.com) email box. - o Subject Line to include: Client, Loan Number and "3rd Party Defaulted" - o Body of email to include: Reason why 3rd party defaulted. The new sales date, where applicable AND/OR the updates sales results.
	Please Note The required steps can be added through VendorScape. Under Task, choose "Add" then "Production Task –3rd Party Defaulted". When adding the event in VendorScape the T47 –Third Party Defaulted automatically will be placed into MSP.

Shortening the Redemption Period

If the redemption period process needs to be shortened in Desktop: Go to the File Transfer Form on the Tool Menu, and launch the FC_Shortened_Redemption_Direct_Source or FC_Shortened_Redemption_InHouse_Referred or FC_Shortened_Redemption_InHouse_Non_Referred process. The below process still should be completed.

Redemption Funds

Attorney: Upon receipt of redemption funds, you must:

STEP	ACTION
1	Add the T45, and T37 steps in MSP.
2	T45, ATTY FWRDED REDEMP FUNDS, and complete the actual date with the date the funds are sent to Wells Fargo.
3	T37 – REDMPTN FUNDS POSTED and do not complete the actual date. **Please Note** The required steps can be added through VendorScape or Desktop.
4	For VendorScape, proceed to Step 5 or Step 8 For Desktop, proceed to Step 11
5	Under Task, choose "Add"

6	Then "Production Task – Attorney Forwarded Redemption Funds"
7	When adding the event in VendorScape the T45 – Atty Fwrdded Redemp Funds automatically will be placed into MSP
8	Under Task, choose "Add"
9	Then "Production Task –Redemption Funds Posted"
10	When adding the event in VendorScape T37 – Redmptn Funds Posted automatically will be placed into MSP. Proceed to Step 14
11	Go to the File Transfer Form on the Tool Menu
12	Launch the FC_Property_Redeemed_Direct_Source or FC_Property_Redeemed_InHouse_Referred or FC_Property_Redeemed_InHouse_Non_Referred process
13	Complete the Property Redeemed DDF.
14	Add log code FCREDF (ATTY FWD REDEMP FUNDS TO WF CASH) in MSP or Desktop and send funds to Des Moines. Entering the FCREDF log code enables the open T37 step to map to MSP. To enter the log code in Desktop, select Add Note from the Tool Menu, then select Note Type Foreclosure, and enter the log code in the MSP log code field.
15	Input a detailed message through VendorScape or Desktop, including the tracking information for shipment of the funds. <u>The funds must be forwarded to Wells Fargo the same day as receipt.</u> Complete and upload the Funds Remittance Cover Sheet (Appendix B) into VendorScape or Desktop.
16	Overnight the funds to the Wells Fargo Conventional Claims area to the attention of: Attn: Wanda Tucker Mac #X2302-04F Wells Fargo Home Mortgage /Conventional Claims 1 Home Campus Des Moines, IA 50328-0001

Reports:

Attorney – Redemption Funds Follow Up: Provides list of loans where the T46 or T53 step is populated but the T45 actual date has not been updated (Action Required).

Confirmation

Attorney: Your office will be responsible for monitoring the loan during confirmation period.

STEP	ACTION
1	Update the actual date for step T39, AFT SALE CONFIRMATION EXP with the day the confirmation expires or complete the After Sale Confirmation Expired event in Desktop. This date cannot be completed with a "future date."

Non-Foreclosure Title Transfer

In the event that it is determined during our foreclosure action that a foreclosure sale is not necessary due to Wells Fargo acquiring title via a voluntary foreclosure, consent judgments, lien payoff, etc., Wells Fargo must inform the investor and the post sale business units within Wells Fargo.

In order to avoid processing delays and investor penalties, Wells Fargo has implemented a new process for counsel to follow to ensure that we receive notification of these events. In addition to your standard foreclosure

process for notifying Wells Fargo, effective immediately, please adhere to the following guidelines: Your office will be responsible for monitoring the loan during confirmation period.

Attorney: Update the Non FCL Title Transfer task in VendorScape with the date your office receives the executed Deed (this information needs to be updated the same day your office receives the signed deed). VendorScape and Desktop Referrals both need to follow the below procedure:

STEP	ACTION
1	Email SaleResults@wellsfargo.com and outline the chain of events that occurred on the file the same day that you receive the executed deed. • Provide the amount of the deed and a copy of the deed in your email • Provide the date your office received the executed deed
2	Add the Y46 (NON-FCL TITLE TRANSFER) step to the FOR3 screen in MSP.
3	Complete the Y46 Actual date on FOR3. Use the date your office received the executed Deed. **Please Note** The required steps can be added through VendorScape. Under Task, choose "Add," then "Production Task – Non-Fcl Title Transfer." When adding the event in VendorScape, the Y46 – Non-Fcl Title Transfer automatically will be placed into MSP.

Massachusetts – Notice of Disposition of Proceeds from Foreclosure Sale

For the state of Massachusetts, if the property is sold and there are surplus funds, the Attorney will need to provide notification to the mortgagor. The mortgagor will be provided with an itemized accounting of the disposition of the proceeds from a power of sale, including but not limited to the sale price, legal fees, auctioneer fees, publication costs and other fees, and any surplus due the mortgagor.

The notice must be provided within 60 days after receipt of such funds; however, if the sale is subject to further legal proceedings, the notice and accounting may be delayed until the conclusion of those proceedings.

STEP	ACTION
1	Attorney: Enter event MA Surplus Funds through VendorScape or add the FC Massachusetts Surplus Funds issue in Desktop. The event will map to MSP and step Y45, SURPLUS FUNDS; ADVSD MTGR, will be entered in the Foreclosure workstation template or the REO workstation template. Due to the delay from sale held and receipt of funds the loan may be transferred to REO.

North Carolina – Foreclosure Notice Requests

The lender must provide a notice stating that borrower requests for information have been complied with – perform the following:

STEP	ACTION
1	WFHM: Image all correspondence except executive communication, affiliate communication, and email communication. • Upload imaged documents to VendorScape or Desktop at the time of foreclosure referral. • If correspondence is received after referral by a business unit that does not utilize imaging, one of the following canned messages will be uploaded to VendorScape advising the Attorney of the status of any written correspondence. Subject - Complaint

	Message - Wells Fargo has received and responded to the borrower's correspondence in accordance with the NC state statute. Subject - - Non Complaint Message - Wells Fargo has received and responded to the borrower's correspondence, outside of timelines set within the NC state statute. Subject - Pending Message - Wells Fargo has received customer correspondence and is still in the process or reviewing and providing a response to the borrower
2	Attorney: Your office is responsible for completing the required affidavit to file with the Notice of Foreclosure based on the information provided by Wells Fargo.

Postponements/Canceled Sales/Restarts

When the file is placed on hold for any reason other than Loss Mitigation and there is a sale scheduled, follow the procedure below:

STEP	ACTION
1	Attorney: If the file is suspended in the Foreclosure Workstation, confirm the hold in VendorScape or Desktop and postpone/cancel (according to state guidelines) the sale. Refer to the Blanket Fee Approval Matrix for fee approval.
2	Attorney: If the file is NOT suspended in the Foreclosure Workstation add the appropriate hold steps (see Holds).
3	Attorney: If the file is NOT suspended in the Foreclosure Workstation, the following steps must be updated: • Add the Sale Postponed Steps: The actual date for the postponement step should be the date for which the sale was previously scheduled. The Sale Postponed steps should be entered whether the sale is postponed or cancelled. - o E01 – SALE POSTPONED (1) - o E02 – SALE POSTPONED (2) - o E03 – SALE POSTPONED (3) - o E06 – SALE POSTPONED (4) - o E07 – SALE POSTPONED (5) - o E08 – SALE POSTPONED (6)
4	For Desktop, proceed to Step 5 For VendorScape, proceed to Step 8 For Desktop Referrals, proceed to Step 11
5	If the Sale is being CANCELLED , go to the File Transfer Form on the Tool Menu
6	Add the FC_Sale_Cancelled_Direct_Source or FC_Sale_Cancelled_InHouse_Referred or FC_Sale_Cancelled_InHouse_Non_Referred process
7	Complete the Foreclosure Sale Cancelled DDF. Your office will be required manually to enter the above postponement steps in MSP.
	Process complete, proceed to next section
8	Under Task, choose "Add"

9	Choose "Production Task"
10	Choose corresponding event based on whether this is the 1 st postponement or subsequent postponements. When adding the VendorScape event the corresponding step automatically will be placed into MSP.
	Process Complete, proceed to next section
11	For Desktop Referrals, go to the File Transfer Form on the Tool Menu
12	Add the FC_Sale_Postponed_Direct_Source or FC_Sale_Postponed_InHouse_Referred or FC_Sale_Postponed_InHouse_Non_Referred process
13	Complete the Attorney Requests Sale Postponement DDF. This automatically will insert and complete the E01 step for you.
14	Notate the file with the specific reason the sale is being postponed
15	Update the Actual Sales Date Event in VendorScape or the Foreclosure Sale Held event in Desktop with the newest sales date.
15	Confirm that the U20 (F/C Scheduled Sales Date – FOR3 in MSP) equals the Actual Date. Do not update the Foreclosure Sale Held Task in VendorScape with the sales date. That field should not be completed until the sale is held.
16	To complete subsequent sale postponement requests, Re-Open the previous sale Postponement process
17	Go to Edit Step Info on the Tool Menu
18	Un-complete the Attorney Requests Sale Postponement step. Complete the step again to add an additional postponement step. • 1st Sale Postponed • 2nd Sale Postponed • 3rd Sale Postponed • 4th Sale Postponed • 5th Sale Postponed • 6th Sale Postponed **Please note** If the file is placed on hold and suspended in the Foreclosure Workstation, DO NOT use the above steps when cancelling or postponing a sale.

When Loss Mit contacts your firm with a request to postpone a sale, follow the procedures below:

STEP	ACTION
1	Attorney: The request to postpone the sale should come with a timeframe (i.e., 30 days). If the postponement timeframe is not specified, postpone the sale for 30 days and follow the below process. The following steps need to be updated: • Add the Postponement Request Steps: - o F78 - LM Postponement Request 1 (Actual date equals the date your office is advised of the postponement.) - o F79 - LM Postponement End 1 (Actual date equals the date one day prior to the new scheduled sale date. Complete the step with this date as soon as the new sale is scheduled.)

	- o 527 - LM Postponement Request 2 - o 528 - LM Postponement End 2 - o 529 - LM Postponement Request 3 - o 530 - LM Postponement End 3 - o 531 - LM Postponement Request 4 - o 532 - LM Postponement End 4 - o 533 - LM Postponement Request 5 - o 534 - LM Postponement End 5
2	For VendorScape, proceed to Step 3 For Desktop, proceed to Step 7 For Desktop Referrals, proceed to Step 10
3	Under Task, choose "Add"
4	Choose "Production Task"
5	Choose corresponding event based on whether this is the 1st postponement or subsequent postponements. When adding the VendorScape event, the corresponding step automatically will be placed into MSP. - o Loss Mitigation Advised Attorney to Hold - o Loss Mitigation Hold Lifted - o LM Postponement Request 2 - o LM Postponement End 2 - o LM Postponement Request 3 - o LM Postponement End 3 - o LM Postponement Request 4 - o LM Postponement End 4 - o LM Postponement Request 5 - o LM Postponement End 5
6	Add the Sale Postponed Steps: The actual date for the postponement step should be the date for which the sale was previously scheduled. The Sale Postponed steps should be entered whether the sale is postponed or cancelled. - o E01 – SALE POSTPONED (1) - o E02 – SALE POSTPONED (2) - o E03 – SALE POSTPONED (3) - o E06 – SALE POSTPONED (4) - o E07 – SALE POSTPONED (5) - o E08 – SALE POSTPONED (6)
	Process complete, proceed to next section
7	In Desktop, if the Sale is being CANCELLED, go to the File Transfer Form on the Tool Menu
8	Add the FC_Sale_Cancelled_Direct_Source or FC_Sale_Cancelled_InHouse_Referred or FC_Sale_Cancelled_InHouse_Non_Referred process
9	Complete the Foreclosure Sale Cancelled DDF. Your office will be required to enter manually the above postponement steps in MSP.
	Process complete, proceed to next section

10	For Desktop Referrals, go to the File Transfer Form on the Tool Menu
11	Add the FC_Sale_Postponed_Direct_Source or FC_Sale_Postponed_InHouse_Referred or FC_Sale_Postponed_InHouse_Non_Referred process
12	Complete the Attorney Requests Sale Postponement DDF. This automatically will insert and complete the E01 step for you.
13	To complete subsequent sale postponement requests, re-open the previous Sale Postponement process
14	Go to Edit Step Info on the Tool Menu
15	Un-complete the Attorney Requests Sale Postponement step
16	Complete the step again to add an additional postponement step. • 1st Sale Postponed • 2nd Sale Postponed • 3rd Sale Postponed • 4th Sale Postponed • 5th Sale Postponed • 6th Sale Postponed
17	Notate the file with the specific reason the sale is being postponed.
18	Update the Actual Sales Date Event in VendorScape or the Foreclosure Scheduled Sale Date event Desktop with the newest sales date.
19	Confirm that the U20 (F/C Scheduled Sales Date – FOR3 in MSP) equals the Actual Date. Do not update the Foreclosure Sale Held Task in VendorScape with the sales date. That field should not be completed until the sale is held.
20	If there is an actual date for step U30, RQBID INSTR FR MI/INV/INS, step N36, ATTORNEY COMPLETES BID, or step Z40, RCVD MI/INV/INS BID INSTR, remove the actual date.
21	Update the U31, SEND BID INSTRCTN TO ATTY, if a bid has been completed by taking the actual date out.

Reports:

Attorney – Sale Postponed: Daily list of loans where the sale has been postponed and an update is needed.

Liaison – Sale Postpone Follow-Up Report: Daily list of loans where Step D50 actual date is not null, step E01, E02, E03, E06, E07 or E08 actual date is not null and the U20 actual date is null. Enter the log code FCLFPR, LIAISON FOLLOWED UP FOR POSTPONEMENT REASON, within 24 hours of report when following up on postponement.

Restarts

If your office finds it necessary to restart the foreclosure, follow the procedure below:

STEP	ACTION
1	In Desktop, the Restart Necessary issue should be raised. Select Issues from the Tool Menu, Add Issue, and select the “FC Restart Necessary” issue. Provide the reason why the

	estart is necessary and proceed to following the below procedure.
2	Remove the actual date from the T01 step (1ST LEGAL ACTN COMPLETED) on the FOR3 screen in MSP.
3	Attorney: Enter the following steps on FOR3 in MSP: • 523 – Foreclosure Restart 1 • 524 – Foreclosure Restart 2 • 525 – Foreclosure Restart 3 • 526 – Foreclosure Restart 4
4	Once the first legal action has been filed, complete the actual date of the T01 step on the FOR3 screen in MSP with the date first legal was filed. **Please note** Send all fee approval requests via VendorScape to FC_Overallowable_Fee Request or through Desktop by opening the FC_Additional_Fees_Costs_Needed_Direct_Source or FC_Additional_Fees_Costs_Needed_InHouse_Referred or FC_Additional_Fees_Costs_Needed_InHouse_Non_Referred process and completing the DDF. Provide detailed information, including a complete breakdown of work to be performed. **Please note** If the file is dismissed by the court, a new referral is needed. Restart steps would not be used in this case. (See New Referral Needed)

Rescinding Sales Procedures

Attorney: Upon determination that a sale needs to be rescinded, you are responsible for ensuring that your office conducts due diligence prior to submitting any and all rescission requests. Any financial losses due to Attorney neglect and or timing will be the responsibility of the corresponding counsel.

STEP	ACTION
1	<u>Execution of Rescission Documents (see Executables):</u> If your office requires Wells Fargo to execute documents to process the Rescission of the foreclosure sale, please do the following: • In the subject please place '<u>Notice of Rescission</u>' in the beginning of the Subject Line of the email • Please send the document to doc.execution@wellsfargo.com NOTE: Failure to do both items mentioned above will delay in the execution of the rescission document required.
2	Submit an email request to Wells Fargo via RescissionRequests@wellsfargo.com .
3	Email the Rescission Requests mailbox any time your office enters sale results and the T32 is populated and the deed is not recorded. Wells Fargo needs to be notified to correct our sale reporting and make necessary system changes. The email must contain the following information: • Subject Line to include: Client, Loan Number, Date of the foreclosure sale that is being rescinded • Body of Email to include: • Borrower's Name • Cost of Rescission • New Foreclosure Sale Date • Rescission Reason • Rescission Requestor • Bankruptcy Information (If Applicable) • Include (Person who filed, When filed, Filing Location , Case number and Chapter)

	• Fee Request
4	Await authorization from Wells Fargo prior to completing the rescission request.

*****Please note***** The first initial FLAT fee request to rescind a sale will be approved by the rescissions team and your office should bill under the rescission line item. If a litigation action is required to complete a rescission or the rescission results in litigation, follow the blanket fee approval for hourly litigation, not covered by DOS.

IF RESCISSION IS GRANTED:

STEP	ACTION
1	WFHM Rescission Team: • Enter log code FCREGR (RESCISSION GRANTED) on NOTS • Notify attorney via VendorScape or Desktop.
2	Attorney: Completing the Rescission Follow the applicable Investor and State Regulatory Guidelines to complete the rescission request.
3	Provide weekly updates until the rescission has been legally completed. All updates should be made in VendorScape or Desktop.
4	If at any time during the rescission process, your office is notified that the rescission is not warranted, notify RescissionRequests@Wellsfargo.com immediately. • Subject Line to include: Client, Loan Number, Rescission Denied • Body of Email to include: - o Detailed information supporting the rescission denial.
5	Update the Rescission Completed by Attorney event in VendorScape with completed rescission date. For VendorScape , proceed to Step 6 For Desktop , Proceed to Step 8
6	Under Task, choose "Add"
7	Choose "Production Task – Rescission Completed by Attorney" When adding the event in VendorScape, the D97 – Rescission Req Snt 2 Atty automatically be will placed into MSP. Process complete, proceed to next section
8	If this is a Desktop referral, go to the File Transfer Form on the Tool Menu
9	Add the FC_Sale Rescinded_Direct Source or FC_Sale Rescinded_InHouse_Referred or FC_Sale Rescinded_InHouse_Non_Referred process
10	Complete the DDF
11	Provide a New Foreclosure Sale Date
12	Proceed with Foreclosure Guidelines regarding foreclosure sales

IF RESCISSION IS DENIED

STEP	ACTION
1	WFHM Rescission Team: ▪ Enter log code FCREDN (RESCISSION DENIED) on NOTS ▪ Notify attorney via VendorScape or Desktop.
2	Attorney: ▪ Your office will proceed with recording of deed and maintain loan status until

	confirmation / redemption / ratification is completed.

Re-foreclosures

STEP	ACTION
1	Attorney: Upon determination that a re-foreclosure is required, send notification to Wells Fargo via email to RescissionRequests@wellsfargo.com . Include the following information in your email: - Detailed reason why the re-foreclosure is necessary. - Expected timeframe of the re-foreclosure.
2	WHFM Rescission Team: Reopen the Foreclosure Workstation and add the 520 RE-FORECLOSURE STARTED and the 521 RE-FORECLOSURE COMPLETED steps. Complete the 520 step and leave the actual date of the 521 step open to be completed by the Attorney once the re-foreclosure is completed.
3	Attorney: Once the re-foreclosure is finalized, complete the 521 RE-FORECLOSURE COMPLETED step in MSP.

Closing Your File

Attorney: Upon completion of the foreclosure or upon receipt of notification to “close and bill,” you are required to close VendorScape or Desktop within 24 hours of notification or completion of foreclosure.

Reports:

Attorney – Removed from Foreclosure Previous Day: Daily list of loans that were removed (foreclosure workstation closed) previous day with removal description. This report notifies the Attorney to close and bill their file, as well as close out VendorScape or Desktop (Action Required).

Taxes, Condo Dues, and Property Damage

Delinquent Taxes (Jeopardizing Lien)

STEP	ACTION						
1	Attorney: Determine if the delinquent taxes are placing Wells Fargo's lien in jeopardy and if it is necessary to pay the taxes at this time. NOTE: All Wells Fargo Home Equity and Wells Fargo Financial tax issues will need to be handled by other teams outside of the Wells Fargo Tax Department. To prevent any delays in the research and resolution of all tax issues pertaining to these two specific types of loans, please send all of your tax research requests directly to the following mailboxes: <table> <tr> <th><u>Type of Wells Fargo Loan</u></th><th><u>Location to Send Tax Research/Payment Requests</u></th></tr> <tr> <td>Wells Fargo Financial</td><td>taxwffloans@wellsfargo.com</td></tr> <tr> <td>Wells Fargo Home Equity</td><td>ForeclosureInfoWFHE@wellsfargo.com</td></tr> </table>	<u>Type of Wells Fargo Loan</u>	<u>Location to Send Tax Research/Payment Requests</u>	Wells Fargo Financial	taxwffloans@wellsfargo.com	Wells Fargo Home Equity	ForeclosureInfoWFHE@wellsfargo.com
<u>Type of Wells Fargo Loan</u>	<u>Location to Send Tax Research/Payment Requests</u>						
Wells Fargo Financial	taxwffloans@wellsfargo.com						
Wells Fargo Home Equity	ForeclosureInfoWFHE@wellsfargo.com						

2

Attorney: For all other delinquent tax issues, check the TAX2 and TAXN screen on MSP to see if taxes have been disbursed. The bottom right section of screen shows disbursement and refund history available to you on the TAX2 screen.

The screenshot displays the TAX2 screen in the Cpl - myXTRAI Enterprise application. The window title is 'Cpl - myXTRAI Enterprise'. The interface shows the following information:

TAX2 0000000000 **TAX AND LIEN INFORMATION** 01/15/07 16:34:52

312 21 NAME JH JACKSON TYPE F.H.A. B/S ST 34 COU 089 CITY 0000

TAX NAME INC DOMINION HOMES PENDING JASON H JACKSON YR 06 MAN F

PROP 1521 N WILD TURKEY DRI NEWARK OH 43055 GROUP

-----MAIN-----* PF1 FOR ADDITIONAL TAXES *

ACTION TYP SEQ PAYEE TRM DUE DISB AMOUNT BILL NEW UNEV SEP VP OVR

312 21 34089 12 01-07 1176.24 2 0 1 N Y

TAX COMPANY N MORTGAGEE ID 10239

TAX ID 5428667400273

-----* PF2 FOR ADDITIONAL MESSAGES *-----

ZERO BALANCE LOAN

COMPLETED FORECLOSURE 11/13/06 FULL SETTLEMENT 09/30/05

ZERO PRINCIPAL BALANCE FORECLOSURE REMOVAL

----- PF24: TO TAXC -----

----- TAX PAYEE ----- ----- DISBURSEMENT AND REFUND HISTORY -----

LICKING COUNTY TYP PAYEE DUE PAID CHECK # AMOUNT

TREASURER 312 34089 06-06 05-12-06 098844 1176.24-

PO BOX 830 312 34089 01-06 02-16-06 321023 1176.24-

NEWARK OH

43058

4B :00.1 01/21

Connected to host: fidelity1-3270.wellsfargo.com [10.28.13.215] (147224F4) NUM 4:35 PM

3

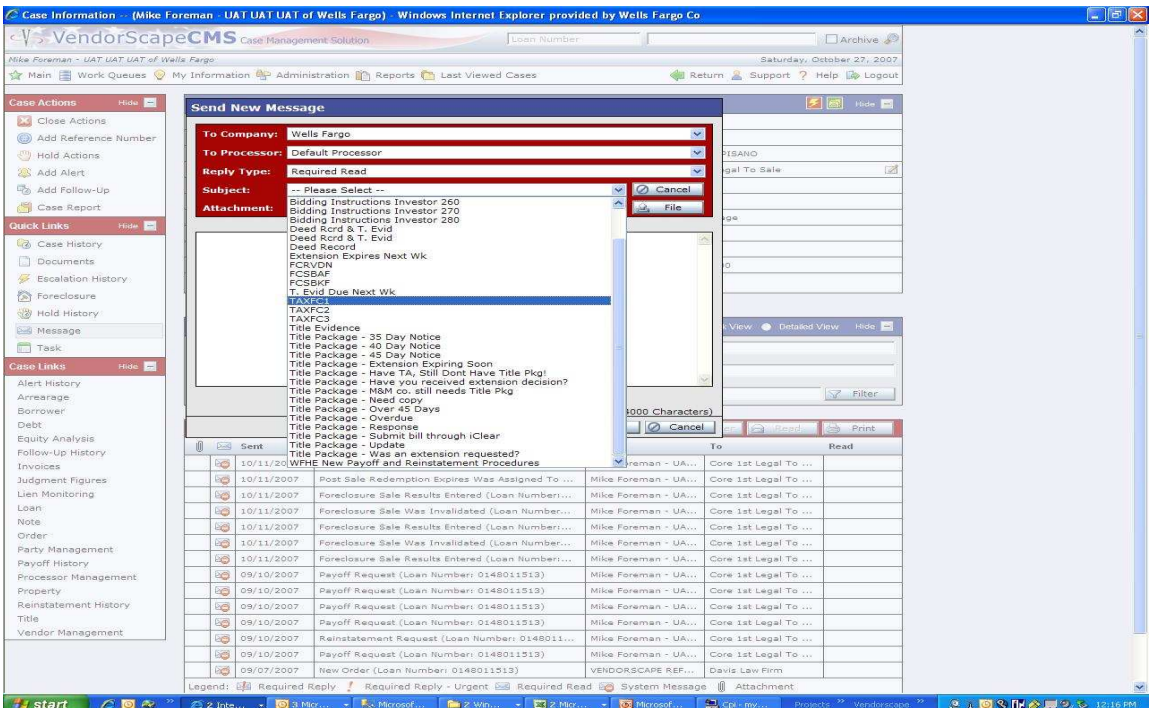
Attorney: Once you have validated that the taxes need to be paid to ensure our lien is not jeopardized, determine if the loan is escrowed or non-escrowed for taxes. If the bill code on TAX2 (see above example) is equal to a "3," it is a non-escrowed loan. Any other bill code (A, B, C, 1, 2) indicates the loan is escrowed for taxes. Notification to the tax department can be completed through VendorScape.

- The Wells Fargo Tax Department does not prepay taxes. If the taxes need to be paid ahead in certain circumstances, they will not pay beyond 60 days forward.
- The Wells Fargo Tax Department will also not pay** any pro-rated tax amounts, but can pay the amounts in full if they are due within 60 days.

****Exceptions:** In Virginia and a few specific Ohio counties, special requirements exist around taxes paid prior to sale. See matrix below for further direction on how to handle pro-rated/estimated taxes required to be paid in these two areas.

Types of Non-Real Estate Taxes That the WFHM Tax Department Does Not Pay

Type	How to request/handle payment
Loan has an unpaid non-real estate property tax bill due that needs paid prior to foreclosure sale Utility, realty transfer tax, transfer of deed tax, special assessment, personal property taxes, etc. Exception if TAX SALE situation does exist: Follow the "TAXFC3" task process as defined below to submit. Our specialized Tax Sale Department WILL handle these exceptions.	1. Advance funds to pay non-property tax items and submit invoice to I-Clear for reimbursement. OR 2. Submit invoice to the Default Accounts Payable team (through I-Clear) for payment.

	Coop Leases/ Home Association Dues	Refer to Homeowners/Condo Dues section of this manual for further direction
	Mobile Home Issues	Refer to Manufactured/Mobile Home Issues section of this manual for further direction
	Pro-Rated or Estimated taxes that are required to be paid in the state of Virginia or Ohio's Champaign, Franklin and Trumbull Counties in order to obtain confirmation of sale and deed	1. Advance funds to pay non-property tax items and submit invoice to I-Clear for reimbursement AND use canned message process, outlined below, to advise the tax department of the action you are taking. OR 2. Submit invoice to the Default Accounts Payable team (through I-Clear) for payment AND use canned message process, outlined below, to advise the tax department of the action you are taking.
4	Attorney: Access VendorScape and send a canned message using the New Message option and indicate the appropriate six-digit subject code, as outlined in the matrix below, from the drop down list (see example provided below). It is important that the appropriate six-digit subject line be selected for each situation. This code will trigger the appropriate Wells Fargo Tax Team to research and complete your request.  PLEASE BE ADVISED THAT YOUR OFFICE MUST CREATE THE CANNED MESSAGE FOR YOUR DROP DOWN LIST IN THE SAME MANNER YOU WOULD CREATE A LOG CODE.	
5	Attorney: For Desktop referrals, select Issues from the Tool Menu and raise the corresponding	

Issue. It is important that the correct log code be selected for each situation. This code will trigger the appropriate Wells Fargo Tax Team research and complete your request.

FC TAXFC1	Used when a loan is escrowed and current/delinquent real estate taxes need paid prior to sale. Include the important information and tax amount(s) needed for payment of the taxes due. Parcel/Pin Number Payee – Tax Office & Address Amount to be paid (broken down by base amount, penalty and interest, and fees). Advise if certified funds are required. Installment timeframe – pay-thru date and year
FC TAXFC2	Used when a loan is non-escrowed and current/delinquent real estate taxes need paid prior to sale. Include the important information and tax amount(s) needed for payment of the taxes due: Parcel/Pin Number Payee –Tax Office & Address Amount to be paid (broken down by base amount, penalty and interest, and fees). Advise if certified funds are required. Installment timeframe – pay-thru date and year
FC TAXFC3	Used when a loan is either non-escrowed OR escrowed, and a tax sale is scheduled within 30 days because of unpaid taxes owed. Include the important information and tax amount(s) needed for payment of the taxes due. Parcel/Pin Number Payee – Tax Office & Address Amount to be paid (broken down by base amount, penalty and interest, and fees). Advise if certified funds are required. Installment timeframe – pay-thru date and year

<u>Situation</u>	<u>Loan Indicator Reference in MSP</u>	<u>Six Digit Code to use/How to request payment</u>
Loan is escrowed and current/delinquent real estate taxes need paid prior to sale OR Loan escrowed AND in the state of Ohio AND you have advanced funds on behalf of WFHM in order to obtain confirmation of sale and deed OR Loan is escrowed and there is a scheduled tax sale set out for more than 30 days because of unpaid taxes owning	Bill code on TAX2 screen is <i>NOT equal to a "3"</i>	TAXFC1

	Loan is non-escrowed and current/delinquent real estate taxes need paid prior to sale OR Loan is non-escrowed AND in the state of Ohio AND you have advanced funds on behalf of WFHM in order to obtain confirmation of sale and deed OR Loan is non-escrowed and there is a scheduled tax sale set out for more than 30 days because of unpaid taxes owing	Bill code on TAX2 screen = "3"	TAXFC2
	Loan is either non-escrowed OR escrowed and there is a scheduled tax sale within 30 days because of unpaid taxes owing	n/a	TAXFC3
	Please noteWFHM's Tax Department considers a "tax sale" as a sale of the delinquent taxes (not the sale of the property). If there is a tax foreclosure sale/auction, it should be sent as a TAXFC3 task and considered urgent. If there is an extreme emergency, please utilize the email address TaxSale@wellsfargo.com. If it is urgent, mark the email as urgent as this mailbox is monitored regularly.		
6	Attorney: In the "free form note section" of the message, include the important information and tax amount(s) needed for payment of the taxes due. • Parcel/Pin Number • Payee – Tax Office & Address • Amount to be paid (broken down by base amount, penalty and interest, and fees). Please advise if certified funds are required. • Installment timeframe – pay-thru date and year • Once this information has been entered, click on Send Button.		
7	Tax Department: Complete the request within 5 days.		
8	Attorney: Submit any non-real estate property taxes through I-Clear for payment unless there is a tax sale situation occurring. In those cases, use the TAXFC3 canned and the WFHM Tax Sale Group will handle the research and payment.		

Homeowners/Condo Dues

STEP	ACTION
1	Attorney: If your office determines that Homeowners or Condo association dues/fee become due and it is imperative that they be paid, Wells Fargo asks that you pay these and submit your invoice via I-Clear. Include in your invoice proof of payment for these fees.
2	Attorney: If your office cannot honor this request, add log code FCDQCN (DLQ HOMEOWNERS/CONDO DUES ND TO BE PAID) to FOR2 in MSP or in Desktop and

	contact the Liaison immediately via VendorScape or Desktop including detail information. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.
3	In Desktop, Select File Transfer from the Tool Menu and launch the FC_HOA_City Lien_Direct Source or FC_HOA_City Lien_InHouse_Referred or FC_HOA_City Lien_InHouse_Non_Referred process; manually add log code
4	Liaison: If you receive notification from your attorney that the Homeowners or Condo association dues need to be paid, send notification to DAP with all the information provided by the Attorney. • Add log code FCCDAP (HOA/CONDO DUES SUBMITTED TO DAP).

Reports:

Liaison – Delinquent Condo Dues: Daily report of all loans where attorney entered FCDQCN and FCCDAP is not present. (Action Required)

Violation/Damage/Property Preservation Issues

STEP	ACTION
1	Attorney: If your office is notified of a property preservation issue, such as vacancy or maintenance needed, you will need to enter log code FCPREV (PRESV ISSUE – NOTIFY PP DEPT) on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu, then select Note Type Foreclosure, and enter the log code in the MSP log code field. • Email Wells Fargo at property.preservation@wellsfargo.com, notify them of the issue and provide detailed information.
2	Attorney: If your office is notified of a violation on a property, you will need to enter log code FCLVIO (F/C ATTY NOTIFIED OF VIOLATION) on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field. • Email Wells Fargo at codeviolations@wellsfargo.com and provide details on the violation issue. Wells Fargo will contact your office to obtain further documentation with regard to the violation. Once notification from the Attorney is received, Wells Fargo will contact your office to obtain further documentation in regards to the violation. • If your office receives notification of the violation via email from Wells Fargo, do not forward this violation to the above email address

Reports:

Attorney – Property Preservation Issue: Weekly list of loans that have a Property Preservation issue. (Review)

Attorney – Vacant Property: Weekly report of all loans with vacant occupancy so Attorney can make the determination to reduce redemption, or used for VA appraisal ordering. (Action Required)

Litigation

Wells Fargo has a department assigned to assist in litigation efforts. Its name is Default Operations Support (DOS) and is located in Fredrick, Maryland. The DOS team is not a legal department and there are no attorneys on staff. Wells Fargo's Legal Department is located in Des Moines, Iowa.

WFHM: Add the FC Client Managed Litigation hold to the Desktop file if the litigation is being resolved internally (this hold is only to be placed by WFHM).

Foreclosure Litigation

Depending upon the litigation issue, your office may be required to deal directly with DOS. The representative that is assigned to the case will place his/her name in the processor code on FOR1 and insert D87, SPEC LITIGATION STARTED, and D88, SPEC LITIGATION CLOSED, Steps into FOR3, and an R stop on SAF1. The following situations would require assistance from DOS.

STEP	ACTION
1	Attorney: You should no longer be accepting service on behalf of Wells Fargo on any cases. Additionally, you should no longer be sending Wells Fargo copies of suits as an "FYI." Wells Fargo will wait until we are served.
2	Attorney: If your office is notified of one of the following issues: • Discovery/Interrogatories (Fee requests are to be approved by the liaison by sending the request via VendorScape message to FC_Overallowable_Fee_Request or by opening the FC_Additional_Fees_Costs_Needed_Direct_Source or FC_Additional_Fees_Costs_Needed_InHouse_Referred or FC_Additional_Fees_Costs_Needed_InHouse_Non_Referred process through the File Transfer Form on the Tool Menu in Desktop) • Temporary restraining order that has been entered/granted by the court • Order to Show Cause (NY) • Motion to Dismiss • Answer with Counterclaims • Answer with Affirmative Defenses • Cross Complaint Filings • MSJ Denials • Sanctions • Appeals • Small Claims Cases • Lack of Standing Matters as the ONLY basis of the argument (OH and MA ONLY) <u>*** In all other states these matters can be handled by counsel with the FCL Liasion***</u> • For matters filed in California and Nevada, please send to ServiceOfProcess@wellsfargo.com.
3	Contact DOS via the FCLitTeam@wellsfargo.com email box and copy the Liaison. Include in the email: • Firm Name, Contact Information for Attorney Assigned to the Case (Name, Telephone Number, Email Address) • Wells Fargo Loan Number (including MSP client #), Property Address, and Borrower's Name:

	• Foreclosure Liaison Name and Telephone Number: • Hearing Date, Location, and Time: • Detail Information of Issue: • Copy of pleadings and/or completed interrogatories as attachment • Initial Fee Request (Litigation matters only)
4	Enter log code FCCNTN (CONTESTED FC/COUNTERCLAIM/ADVERSARY NOTIFICATION) on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu then select Note Type Foreclosure and enter the log code in the MSP log code field.

Post Foreclosure Litigation

Attorney: If your office is notified of one of the following issues:

- Wrongful Foreclosure
- Exceptions filed in response to the foreclosure sale

STEP	ACTION
1	Contact DOS via the LitPostSaleREO@wellsfargo.com email box. Include in the email: • Firm Name, Contact Information for Attorney Assigned to the Case (Name, Telephone Number, Email Address) • Wells Fargo Loan Number (including MSP client #), Property Address, and Borrower's Name: • Hearing Date: Location: Time: • Detail Information of Issue: • Copy of pleadings as attachment • Initial Fee Request (Litigation matters only)
2	Eviction matters and bankruptcies filed after the foreclosure sale are not handled by DOS and should be submitted to your REO contact.

Bankruptcy Litigation

Attorney: If your office is notified of one of the following issues:

- Trustee Lien Avoidance
- Objection to POC

STEP	ACTION
1	Contact DOS via the BKLitTeam@wellsfargo.com email box and include the following information in the email: Include in the email: • Firm Name, Contact Information for Attorney Assigned to the Case (Name, Telephone Number, Email Address) • Wells Fargo Loan Number (including MSP client #), Property Address, and Borrower's Name • Hearing Date, Location, and Time • Detail Information of Issue: • Copy of pleadings as attachment • Initial Fee Request (Litigation matters only)
2	For Bankruptcy Adversaries and Sanctions, please see Other Contested Matters .

Fee Approval for Litigation

Fee approval must be obtained prior to any work performed on a litigated case. Receipt of written fee approval from a Litigation Specialist is your authorization to represent Wells Fargo. Invoices submitted for work performed without the requisite prior fee approval, may not be honored.

Foreclosure or Bankruptcy Witness Only

Attorney: If your office is notified that a personal appearance is required to provide testimony in open court or in a deposition, contact DOS via the WitnessRequestsDOS@wellsfargo.com email box. Include in the email:

- Firm Name, Contact Information for Attorney Assigned to the Case (Name, Telephone Number, Email Address)
- Wells Fargo Loan Number (including MSP client #), Property Address, and Borrower's Name
- Foreclosure Liaison Name and Telephone Number
- Hearing Date, Location, and Time
- Detail Information of Issue
- Copy of the Notice of Deposition as attachment

All fee requests for witness only matters should be directed to your assigned liaison via VendorScape as a message to FC_Overallowable_Fee_Request or through the FC_Additional_Fees_Costs_Needed_Direct_Source or FC_Additional_Fees_Costs_Needed_InHouse_Referred or FC_Additional_Fees_Costs_Needed_InHouse_Non_Referred process in the File Transfer Form on the Tool Menu in Desktop and NOT to the DOS team.

For mediations and settlement conferences on non-litigated loans, please see [Mediation/Conference](#).

Government Forfeit and Seizure

STEP	ACTION
1	Attorney: If your office is notified of a Government Forfeit/Seizure, contact DOS via the DefaultLitTeam@wellsfargo.com email box. Include in the email: • Firm Name, Attorney Contact, Telephone Number, and Email Address: • Wells Fargo Loan Number (including MSP client #), Property Address, and Borrower's Name: • Foreclosure Liaison Name and Telephone Number:
2	Attorney: Once the determination is made that the Government Forfeit/Seizure will delay the foreclosure process, enter the D49 XOVERNMENT SEIZURE step and the X64 FORFEIT/SEIZURE RESOLVED step on FOR3 in MSP. Complete the D49 step and leave the actual date of the X64 step open to be completed once the foreclosure can proceed.

Other Matters Handled by DOS

Attorney: If your office is notified of one of the following issues:

- Quiet Title Suit
- Bankruptcy Adversary/Sanctions

STEP	ACTION

1	Send notice to ServiceofProcess@wellsfargo.com . Include the following information in the email: • Firm Name, Attorney Contact, Telephone Number, Email Address: • Wells Fargo Loan Number (including MSP client #), Property Address, and Borrower's Name: • Foreclosure Liaison Name and Telephone Number: • Hearing Date: Location: Time: • Detail Information of Issue: • Copy of pleadings as attachment
2	If the answer is due within 15 days of you providing notice, file for an extension.
3	Enter log code FCCNTN (CONTESTED FC/COUNTERCLAIM/ADVERSARY NOTIFICATION) on FOR2 in MSP or in Desktop. To enter the log code in Desktop, select Add Note from the Tool Menu, then select Note Type Foreclosure, and enter the log code in the MSP log code field.

Contested Files

This process should be followed any time the foreclosure is disputed.

****Please note**** This process is not for lawsuits.

Attorney: When a file becomes contested, add the following steps to the FOR3 screen within MSP.

STEP	ACTION
1	Add step D99, CONTESTED F/C (GENERIC), to FOR3 and complete the actual date with the date you became aware of the issue
2	Add step E10, CONTESTED ISSUE COMPLETED, to FOR3 and leave the actual date open.
3	Once the contested issue is resolved, complete step E10 on FOR3 with the date this issue was resolved or completes the Contested Issue Resolved DDF in Desktop.

For VendorScape:

STEP	ACTION
1	Under Task, choose "Add"
2	Choose "Production Task – Contested Foreclosure." When adding Contested Foreclosure through VendorScape, the D99 and E10 steps automatically will be placed into MSP.
3	The E10 step will map over as an open step; do not fill the date in until the contested issue is resolved.
4	Once the issue is resolved, enter task Contested F/C Resolved. This will add the actual date to the E10 step

For Desktop:

STEP	ACTION
1	Go to the File Transfer Form on the Tool Menu
2	Add the FC_Contested_Direct_Source or FC_Contested_InHouse_Referred or FC_Contested_InHouse_Non_Referred process
3	Complete the Contested Foreclosure DDF. This will automatically insert the D99 and E10 steps in MSP and complete the D99 step.

4	Once the issue is resolved, complete the Contested Issue Resolved DDF. This automatically will complete the E10 step in MSP.

Mortgagor Represented By Counsel

Attorney: When your office is made aware that the mortgagor is represented by counsel, add the following steps to the FOR3 screen within MSP.

STEP	ACTION
1	Add step E80, FC REQST DO NOT CALL, to FOR3 in MSP and complete the actual date with date step is being entered.
2	Add step E81, FC REQST RESUME CALL, to FOR3 in MSP and leave the actual date open.
3	Once the mortgagor no longer is represented by counsel or has reinstated or paid in full, complete the actual date for step E81 with the date the mortgagor is no longer represented or the date reinstatement or payoff funds were received.

For VendorScope:

STEP	ACTION
1	Under Task; choose "Add"
2	Choose "Production Task – Foreclosure Request DO NOT CALL." When adding the event Foreclosure
3	Request DO NOT CALL through VendorScope, the E80 – FC Reqst Do Not Call and E81 – FC Reqst Resume Call automatically will be placed into MSP. The E81 step will map over as an open step; do not fill the date the borrower is no longer represented by counsel.

For Desktop:

STEP	ACTION
1	Go to the File Transfer Form on the Tool Menu
2	Add the FC_Mortgagor_Represented_by_Counsel_Direct_Source or FC_Mortgagor_Represented_by_Counsel_InHouse_Referred or FC_Mortgagor_Represented_by_Counsel_InHouse_Non_Referred process
3	Complete the Mortgagor Represented by Counsel DDF. This automatically will insert the E80 and E81 steps to MSP and complete the E80 step.
4	Once the Mortgagor is no longer represented by counsel or has reinstated or paid in full, complete the Mortgagor No Longer Represented by Counsel event. This automatically will complete the E81 step in MSP.

Probate

STEP	ACTION
1	Attorney: If your office receives notification that the mortgagor is deceased, Enter step D55, DECEASED MTGR (PROBATE), on the FOR3 screen in MSP and populate the actual date with the date they are entering the step
2	Enter step D82 DECEASD MTG(PROBATE)RSLVD and keep the actual date blank until the Probate issue is completed
3	Once the issue is completed, please complete the actual date with the date of resolution (currently there is not a task in VendorScope or Desktop to map this step to MSP)

4	Note VendorScape or Desktop with detailed information, course of action that needs to be taken, and any additional fee approval request. **Please Note** The required step D55 can be added through VendorScape or Desktop. For VendorScape , proceed to Step 5 For Desktop , proceed to Step 7
5	Under Task, choose "Add"
6	Choose "Production Task – Deceased Mortgagor (Probate)." When adding the event in VendorScape, the D55 – Deceased Mtgr (Probate) automatically will be placed into MSP Proceed to Step 14
7	Go to the File Transfer Form on the Tool Menu
8	Add the FC_Probate_Direct_Source or FC_Probate_InHouse_Referred or FC_Probate_InHouse_Non_Referred process
9	Complete the Probate Research Needed DDF. This automatically will insert and complete the steps for you. Once the issue is resolved, complete the Probate Resolved event.
10	The Probate hold also will need to be added when the borrower is deceased. Select Holds from the Tool Menu
11	Select "FC Probate" as the hold Reason.
12	Comments should indicate the name of the deceased borrower, what action is being taken, or what approvals are needed to proceed.
13	A copy of the death certificate is to be obtained and uploaded to imaging.
14	Liaison: If customer service receives notification that the borrower is deceased after the loan already has been referred for foreclosure, they will place log code RCVDC (RECEIVED DEATH CERTIFICATE) on the loan. Management will receive a report daily of all loans where the log code was placed on the loan the previous day and will, in turn, notify the liaison.
15	Add log code FDCAT (ATTY NOTIFIED OF DECEASED BORROWER ISSUE) on FOR2.
16	Notify the Attorney that the mortgagor is deceased.

Reports

Liaison – Death Certificate Received: Daily report of all loans where customer service has entered log code RCVDC and there is no long code FDCAT. The Liaison is required to notify the Attorney that the mortgagor is deceased and update FOR2 with FDCAT log code. (Action Required)

Mediation/Conference

Attorney: As soon as you are notified of the Mediation, follow the below process:

Notification of the Conference:

STEP	ACTION
1	Cancel the conference if the loan is in active bankruptcy.
2	Notify WF of the Mediation Conference as soon as notified by emailing one spreadsheet daily to FCDAP@wellsfargo.com - Please send any documents received prior to the scheduling of the mediation to the FCDAP mailbox. - Financial Documents/Packages – All emails with financial documents attached should list in

	the subject line as ***FINANCIAL DOCUMENTS & MEDIATION DATE***. • Please refer to the master contact list that indicates who your contact will be for mediation. The contact list is sorted by state first and then investor. If your applicable state is not available, then your contact will be assigned by investor. (Contact list is provided by Loss Mitigation Manager)
3	Update Fidelity with tracking steps. • K74 MEDIATION / CONFERENCE SCHD Actual date will be populated with the date the borrower opts in or mandatory mediation is determined. (Whichever is applicable in your state) • K75 MEDIATION / CONFERENCE CLSD Actual date should be populated when all mediations/conferences have been held or if the mediations/conferences are cancelled. If the mediations/conferences are cancelled, then notification must be sent to Loss Mitigation at FCDAP@wellsfargo.com
4	If this is a Desktop referral
5	Go to the File Transfer Form on the Tool Menu
6	Add the FC_Mediation_Conference_Direct_Source or FC_Mediation_Conference_InHouse_Referred or FC_Mediation_Conference_InHouse_Non_Referred process
7	Complete the Mediation/Conference Scheduled step. This automatically will insert and complete the steps for you.

****Please note**** MI files – Please refer to specific state instructions as to how to populate tracking steps.

Leading up to and on the day of the conference

STEP	ACTION
1	Attorney should refer to the master contact list to determine assigned negotiator
2	On the day of the hearing, the attorney should dial 1-877-238-4898. The Negotiator should only be contacted directly if no one is available via 1-877-238-4898. • If documents are received after the mediation is scheduled please send to the assigned negotiator with the subject line: ***FINANCIAL DOCUMENTS & MEDIATION DATE***.
3	Attorney will document the information provided by the WF negotiator and reference this information during the hearing.
4	If the conference is rescheduled, the attorney will provide additional clarification on what is required.
5	Any evaluation form required to be filled out after mediation will need to be sent to the LM processor or negotiator assigned with a required return date.
6	VendorScape or Desktop must be updated with any actions taken by the attorney.
7	For any questions or concerns please contact Nicole Miles-Todd – Project Manager Foreclosure at 803-396-4182 or Nicole.S.Miles@wellsfargo.com James Cooke – Manager Loss Mitigation Mediation Team 803-396-7494 James.Cooke@wellsfargo.com

Roth Lawsuits

Any litigation showing the plaintiff's attorney as Mitchell W. Roth, also known as M. W. Roth P.L.C, and the lawsuit is claiming unfair debt collection, predatory lending, or RICO violations, should be forwarded to ServiceOfProcess@wellsfargo.com.

Dismissal Procedures

Attorney: If your office becomes aware that the foreclosure case is dismissed:

STEP	ACTION
1	Send a message or intercom to your liaison advising of the dismissal and the reason the case was dismissed.
2	Add the 679 FC ACTION DISMISSED step to FOR3 in MSP and complete the actual date with the date the case was dismissed.
3	Liaison: Close the Servicer side of VendorScape or close the open processes and launch the Close and Bill process in Desktop to notify the attorney to close his/her file
4	WFHM Losses: Pulls a daily report of foreclosure files that have the 679 step. Move all recoverable fees to non-recoverable fees. Once the fees have been moved, send the file to foreclosure removals.

*****Referral Automation will pick up these files and re-refer them to foreclosure if they are clear to proceed with foreclosure*****

Holds

State Specific Holds in Desktop

In Desktop, select Holds from the Tool Menu and add the following holds if applicable:

FC NCHFA Program (NC)	Hold used to indicate when the borrower has applied for assistance from the NCHFA Program.
FC CTHA Program (CT)	Hold used to indicate the borrower has applied for assistance from the CTHA Program.
FC New Jersey State Hold	Hold used when State Law requires (Maps J90/J91 steps)
FC PHFA Program (PA)	Hold used to indicate the borrower has applied for assistance from the PHFA Program.

Soldier and Sailor Civil Relief Act Procedures

Attorney: If after any of your mandatory Soldiers and Sailor Civil Relief Act reviews or your office receives communication that the mortgagor may be on active duty, place the file on hold and follow instructions outlined [in Pre-Sale Loan Review](#). In Desktop, open the FC Soldiers and Sailors Relief Act issue for the Servicer to place the file on Hold. Select Issues from the Tool Menu, Add Issue, and select "FC Soldiers and Sailor Relief Act" issue. Upload a copy of the active duty paperwork if available and/or provide details regarding the source advising our firm of the active duty.

Bankruptcy

Notice of Bankruptcy Filing

Notices of bankruptcy filings are received from multiple, different sources. As a result, the Bankruptcy

Department requires that all bankruptcy filing notices contain specific information sent to a specific entry point.

Pre-Foreclosure Sale

Attorney: If your office receives notice of a new bankruptcy prior to the foreclosure sale:

STEP	ACTION
1	Note on FOR2 the details of the bankruptcy filing
2	Add step E15 (Bankruptcy Filed Notification) – the “actual” date should be filled in with the date your office enters the step. In Desktop, select Issues from the Tool Menu, add Issue, and select the “FC Bankruptcy Notification” issue. **Please Note** The required steps can be added through VendorScape or Desktop. For VendorScape, proceed to Step 3 For Desktop, proceed to Step 5
3	Under Task, choose “Add”
4	Choose “Production Task – Bankruptcy Filed.” When adding the event in VendorScape, the E15 – Notified of BKCY Filing automatically will be placed into MSP. Proceed to Step 7
5	Select Holds from the Tool Menu
6	Select “FC Bankruptcy Filed” as the hold Reason. This will map the E15 step to MSP.
7	Note the foreclosure file in VendorScape or Desktop and place the file on hold in VendorScape or Desktop
8	Email the Bankruptcy Department at BKsetups@wellsfargo.com • The subject line of the email should contain the WFHM Client and Loan numbers • The email should contain the following information - o Name of Party who Filed - o Case Number - o Date filed - o Chapter filed - o State filed in - o District filed in - o Trustee Name - o Mortgagor Bankruptcy Attorney Name

Post-Foreclosure Sale

STEP	ACTION
1	Attorney: If your office receives notice of a new bankruptcy after to the foreclosure sale, your office is responsible for determining if the filing will invalidate the sale. If the sale is INVALID: • Submit an email request to Wells Fargo via RescissionRequests@wellsfargo.com to ensure the appropriate steps on FOR3 and appropriate stops on SAF1 are rolled back. - o The Bankruptcy Department will NOT accept notice until these updates are made • Once these updates are made, follow the Bankruptcy procedures for Pre-Foreclosure Sale notification

2	If the sale is VALID and no proof of claim is necessary: - The Attorney is authorized and required to complete all necessary actions to ensure the completion of the Foreclosure process - This includes filing an MFR with the Bankruptcy court to allow eviction of residents, conveyance to investors or routing to REO
3	If the sale is VALID and a proof of claim must be filed: Add step E15 (Bankruptcy Filed Notification) – the “actual” date should be filled in with the date your office enters the step. For VendorScape, proceed to Step 4, otherwise proceed to Step 6
4	Under Task, choose “Add”
5	Choose “Production Task – Bankruptcy Filed.” When adding the event in VendorScape, the E15 – Notified of BKCY Filing automatically will be placed into MSP.
6	Note the foreclosure file in VendorScape or Desktop and place the file on hold in VendorScape or Desktop
7	- Email the Bankruptcy Department at BKsetups@wellsfargo.com. - The subject line of the email should contain the WFHM Client and Loan numbers - The email should contain the following information - Name of Party who Filed - Case Number - Date filed - Chapter filed - State filed in - District filed in - Trustee Name - Mortgagor Bankruptcy Attorney Name - Please include note – POC needs to be filed, sale is valid and bankruptcy is valid
8	WFHM: You will receive a daily report of all loans there have been reactivated into foreclosure from either bankruptcy or loss mitigation. Notify the attorney via VendorScape or Desktop that the loan has been reactivated into foreclosure.
9	Attorney: Once you receive notification through VendorScape or Desktop that the bankruptcy has been released, you will need to determine if foreclosure action can continue.

Bankruptcy Filed by Junior Lien Holder

There may be situations where a junior lien holder files a bankruptcy that effects our foreclosure action. These filings can prevent us from going to foreclosure sale until the bankruptcy is dismissed, discharged, or we obtain relief.

Attorney: If your office receives notice of a bankruptcy filing by a junior lien holder:

STEP	ACTION
1	For Vendorscape: Complete event Jr. Lien in Bankruptcy in VendorScape. This will add and complete step W09, JR LIEN IN BNK, and add step E90, JR BNK RELEASED. Include the bankruptcy case number, chapter, and company that filed the bankruptcy. For Desktop: If the foreclosure action cannot proceed as a result of a junior lien bankruptcy filing, select Holds from the Tool Menu and select “FC Jr Lien Bankruptcy” as the hold Reason in Desktop. Within

	the Hold comments, indicate the entity that filed the bankruptcy, its lien position, date filed, chapter, case number, and district/division.
2	Once the loan has been released from bankruptcy or we have obtained relief, the bankruptcy department will complete the actual date for the E90 step. Your office will receive a message through VendorScape or Desktop to proceed with the foreclosure **Please Note** The required steps can be added through VendorScape or Desktop. For Desktop , proceed to Step 3 For VendorScape , proceed to Step 8
3	Go to the File Transfer Form on the Tool Menu
4	Add the FC_Jr_Lien_BK_Direct_Source or FC_Jr_Lien_BK_InHouse_Referred or FC_Jr_Lien_BK_InHouse_Non_Referred process
5	Complete the Junior Lien Bankruptcy Filed DDF. This automatically will insert the W09 and E90 steps to MSP and complete the W09 step
6	Include the bankruptcy case number, chapter, and company that filed the bankruptcy.
7	Once the loan has been released from bankruptcy or relief has been obtained, complete the Jr. Lien BK Released DDF. This automatically will complete the E90 step in MSP.

Court Delays

Attorney: If the file is delayed due to delays in the court:

STEP	ACTION
1	Enter step E59 COURT DELAY step, and then populate the actual date with the date that the delay began
2	Enter the step E60 COURT DELAY ENDED, and leave the actual date open
3	You will need to provide Wells Fargo with an update on the hold every 30 days. This needs to be documented in VendorScape or Desktop.
4	Once the delay has ended and the foreclosure action can proceed, populate the actual date for step E60 with the date you are resuming the foreclosure.

NJ State Specific Court Delay

Attorney: If the file is delayed due to delays in the court, and.

STEP	ACTION
1	Enter step 663 NJ COURT DELAY step, and populate the actual date with the date that the delay began.
2	Enter the step 664 NJ COURT DELAY ENDED and leave the actual date open.
3	You will need to provide Wells Fargo with an update on the hold every 30 days. This needs to be documented in VendorScape or Desktop.
4	Once the delay has ended and the foreclosure action can proceed, populate the actual date for step 664 with the date you are resuming the foreclosure. **Please Note** The required steps can be added through VendorScape.
5	Under Task, choose "Add"

6	Choose "Production Task – NJ Court Delay." When adding the NJ Court Delay event through VendorScape, the 663 – NJ Court Delay and 664 – NJ Court Delay Ended automatically will be placed into MSP.

Foreclosure on Hold

Attorney: If the file needs to be placed on hold for any reason that does not have specific steps or is not listed above:

STEP	ACTION
1	Enter step D50, F/C ON HOLD (SEE FOR3), and populate the actual date with the date the foreclosure is being placed on hold
2	Enter the step D51, F/C RESUME (SEE FOR3), and leave the actual date open (these steps must be added manually to MSP for Desktop Referrals only if there are no other holds/issues/delay steps that can be used).
3	In Desktop, Select Holds from the Tool Menu and select "FC Client/Investor Request" as the hold Reason. This hold is only to be used for reasons other than the specific holds and should be used sparingly
4	<i>Note VendorScape or Desktop with detailed information outlining the problem on the date that the hold is placed.</i>
5	You will need to provide Wells Fargo with an update on the hold every 30 days. This needs to be documented in VendorScape or Desktop and MSP.
6	Once the issue has been resolved and we can proceed with the foreclosure action, populate the actual date with the actual date for step D51 with the date you are resuming the foreclosure. The steps can be added through VendorScape.
7	Under Task, choose "Add"
8	Choose "Production Task – Hold", when adding Hold through VendorScape, the D50 – F/C ON HOLD (SEE FOR3) and D51– F/C RESUME (SEE FOR3) automatically will be placed into MSP. The D51 step will map over as an open step; do not fill the date in until the hold is ready to be removed.

****Please Note**** Do not use these steps for title issues, sending demand letters, sending State Required Letters, or bankruptcy.

Reports:

Attorney – Loans on Hold: Weekly report of all loans that have been placed on hold, D50 is present and the D51 is null. (Action Required)

Liaison – On Hold Report: Weekly report of all loans that have been placed on hold, D50 is present and the D51 is null. (Action Required)

FEMA/Disaster Hold

If your office is advised to hold either by the Client or by the FEMA website, the FEMA/Disaster Hold issue needs to be raised in Desktop.

STEP	ACTION
1	Select Issues from the Tool Menu

2	Add Issue
3	Select the "FC FEMA/Disaster Hold" issue

Loss Mitigation

Loss Mitigation

The Loss Mitigation Department at Wells Fargo Home Mortgage continually tries to work with mortgagors to assist in helping mortgagors retain their homes. As a result, a variety of different options are available depending upon loan type, investor, and stage of delinquency.

****Please note**** If your applicable state has passed specific mediation requirements, please locate those procedures for your state in the appendix section of this manual. If it is not available, contact your case processor for assistance.

Attorney: If the mortgagor contacts your office to request Loss Mitigation options, direct them to one of the Loss Mitigation phone numbers listed below.

- Customer Service Loss mitigation 1-800-662-5014
- Wells Fargo Financial Loss Mitigation 1-800-275-9254
(Fax for WFF loss mitigation documents 1-800-588-9157)
- Wells Fargo Home Equity Loss Mitigation 1-866-623-8958

If your office needs to contact Loss Mitigation for mediation assistance, please utilize the number listed below. **Please note:** these numbers are for Attorney use only and are not to be given to mortgagors or third parties.

- Attorney Mediation Assistance Contact 1-877-238-4898

Options Available

- Forbearance Plans
- Repayment Plans
- Loan Modifications
- Short Sales
- Deed in Lieu of Foreclosure

Notification

STEP	ACTION
1	Attorney: If the mortgagor is approved for a Loss Mitigation workout, the Loss Mitigation Department will notify your office via a message in VendorScape or Desktop requesting that the foreclosure action be suspended while the Loss Mitigation actions proceed.
2	WFHM: You will receive a daily report of all loans there have been reactivated into foreclosure from either bankruptcy or loss mitigation. Notify the attorney via VendorScape or Desktop that the loan has been reactivated into foreclosure.
3	Attorney: Once you receive notification through VendorScape or Desktop that the loss mitigation has been released, you will need to determine if foreclosure action can continue. A copy of the forbearance agreement will be provided to your office if available.

There are times when either the Collections or Loss Mitigation department will set the borrower up on a

repayment plan and the borrower may send this payment in via Western Union. The Wells Fargo collector will add a status code of 113 on the DLQ1 screen when he/she receives a Western Union confirmation number from the borrower. This is only a status of the Western Union confirmation and not confirmation that payment has been received and applied.

Attorney: Your office will receive a daily report of all loans with a “113” codes and review the MSP system to determine course of action.

STEP	ACTION
1	It is your responsibility to review the P309 screen daily to see if a payment has been applied after the foreclosure referral date (U01 actual date).
2	If funds have been applied, contact the Loss Mitigation Representative at 866-435-1982 for core loans and 866-363-7622 for 106 loans to determine if the borrower is on a valid forbearance agreement and that Wells Fargo will be accepting said payment. If this is confirmed by the Loss Mitigation Representative, your office will be provided direction on foreclosure action. • Enter the appropriate sale postponement step and enter today's date as the actual date. Refer to the Postponed Sales section of this manual. • Note the FOR2 screen with the Loss Mitigation Representative who directed your office to postpone the foreclosure sale.

Reports:

Attorney – 113 Report (Received Funds): Daily list of loans where Wells Fargo has received confirmation of funds being sent via Western Union and a foreclosure sale is scheduled for five days or less. This report is to be worked by the attorney to review the P309 to see if payment has been received and applied, and/or obtain foreclosure course of action from the Loss Mitigation Department. (Action Required)

HAMP 10-2 Certifications

Attorney:

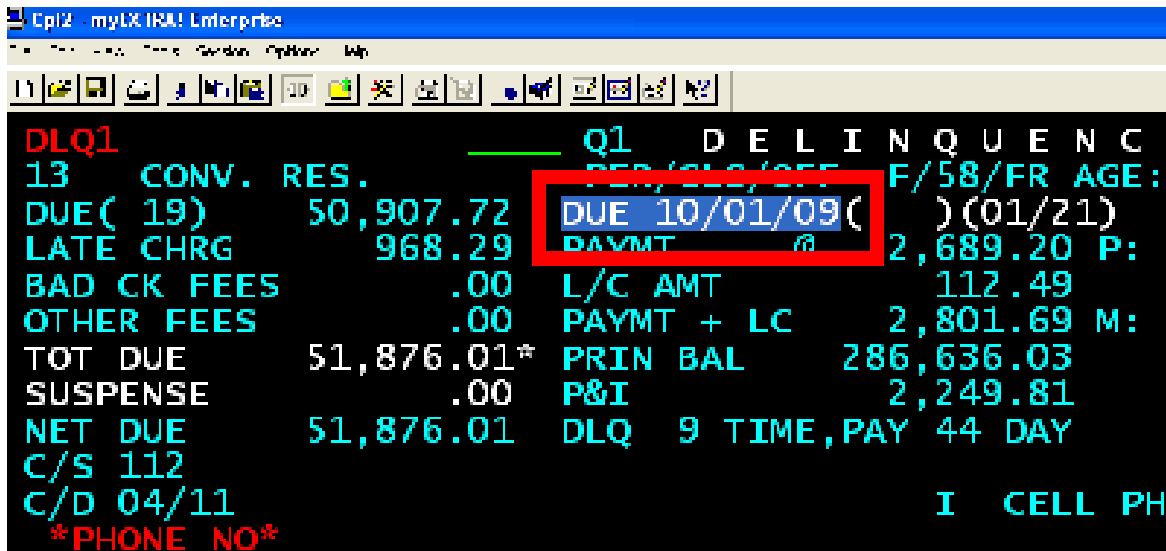
****Effective Monday, April 11th 2011, the below will need certification before going to sale (even loans that were never eligible: Vacant, Non-Owner, Originated after 01/01/09, etc)****

- ALL Non-Government Sponsored Enterprise loans regardless of due date
- FHLMC loans that have a due date of 08/01/10 or later (you can check DLQ1 on MSP for the Due Date *see partial screenshot below*)

*****Please Note*****FHA, VA, and FNMA loans still do not apply to this requirement.

Never eligible criteria (but will still need a certification):

- Originated after January 1, 2009
- Property is vacant, non owner
- Property is condemned
- Unpaid principal balance exceeds \$729,950 for a 1-unit property, exceeds \$934,200 for a 2-unit property, exceeds \$1,129,250 for a 3-unit property and exceeds \$1,404,400 for a 4-unit property
- Property is more than 4 units



FHLMC loans with a due date prior to 08/01/10 (check DLQ1 in MSP) and all FNMA loans do not require certification:

STEP	ACTION
1	Status of the HAMP efforts should be confirmed to make sure HAMP options have been exhausted.
2	Review FOR3 for the Y97 HAMP LM OPTIONS EXHAUSTED to confirm HAMP has been exhausted. If the Y97 is present and completed, do NOT email the HAMPPresale mailbox. This step is confirmation that HAMP has been exhausted.
3	If the Y97 is not present or is not completed (except for vacant, non-owner occupied, or originated after 01/01/09), email HAMPPresale@wellsfargo.com to provide status of HAMP.

FHA certification is not needed; you should not be emailing the HAMPPresale Mailbox

VA certification is not needed; you should not be emailing the HAMPPresale Mailbox.

Certification is valid for 7 business days from date on certification only. If certification has expired, a new one will be needed.

Once the above is reviewed and it is determined that certification is needed, please follow these procedures:

STEP	ACTION
1	Review VendorScape or Desktop for HAMP 10-2 Certification Form.
2	If the sale is set within 48 business hours and certification has not been uploaded in VendorScape or Desktop, contact HAMPPresale@wellsfargo.com

If a valid certification is not given, the sale will need to be postponed at least 7 days to allow time for review

****Please note** This mailbox does not handle: Wells Fargo Financial, Wells Fargo Home Equity, and Wachovia Equity files. Please contact the assigned processor in VendorScape or Desktop.**

Designated Counsel Repayment Plan Procedure

After Designated Counsel for FHLMC has approved the mortgager for a Re-Payment Plan, the following needs

to occur to set up the RPP plan with WFHM and to process the initial payment:

FHLMC (Freddie Mac)

STEP	ACTION
1	A copy of the plan is to be emailed to FHLMCRPPsetup@wellsfargo.com Subject Line = DC RPP Client – Loan Number The payment plan will be set up in MSP by Loss Mitigation.
2	A hard copy of the plan as well as the initial payment needs to be forwarded to the following address: Wells Fargo Home Mortgage 1000 Blue Gentian Road Suite 300 MAC Code 9999-01N Eagan, MN 55121 The check will be routed to DSM CASH for processing.

Retained Counsel Repayment Plan Procedure

After Retained Counsel for FNMA has approved the mortgager for a Re-Payment Plan, the following needs to occur to set up the RPP plan with WFHM and to process the initial payment:

FNMA (Fannie Mae)

STEP	ACTION
1	A copy of the plan is to be emailed to FannieMae.NegotiationsEscalations@wellsfargo.com. Subject Line = DC RPP Client – Loan Number The payment plan will be set up in MSP by Loss Mitigation
2	A hard copy of the plan as well as the initial payment needs to be forwarded to the following address: Wells Fargo Home Mortgage 1000 Blue Gentian Road Suite 300 MAC Code 9999-01N Eagan, MN 55121 The check will be routed to DSM CASH for processing.

Appendix A - Distributing Foreclosure Mail

Tax sale notification should be faxed **immediately** to the tax department at:

(866) 863-9263

Attn: Tax Sale Supervisor

They will advise if they need the original documents mailed to them.

Property Preservation should be notified of demolition notices from the city or county. Your office should also send notice of the violation immediately to codeviolations@wellsfargo.com. If possible, scan the document and include the attachment in your email. Otherwise, fax the demolition notice to Property Preservation at:

Attn: Property Preservation

Fax: (414) 214-9013

Litigation Documents such as MSJ Denied and Summaries, or any documents related to an issue that DOS is working on should be sent to the attention of the LITGATION PROCESSOR at the following address:

Default Operations Support

8480 Stagecoach Circle

Frederick MD 21703

X3801-02G

The following items are not needed by your liaison and should be retained in your file:

1. **Mortgagee Notice of Pending Acquisition-(i.e.) A letter sent to debtor by attorney stating “the property listed above is about to be foreclosed...”**
2. **HUD Tenant Occupancy Letter**
3. **Copy of attorney correspondence stating they represent Wells Fargo**
4. **Copy of Foreclosure Dismissal**
5. **Notice of a Sheriff’s/Trustee’s sale**
6. **Motion for Default Judgment**
7. **Substitution of Trustee**
8. **Notice from attorney closing the file**
9. **A letter stating that a document was recorded**
10. **A letter from attorney acknowledging receipt of foreclosure referral**
11. **Notice of Default/Election to Sell Under Deed of Trust (unless for unpaid HOA fees)**
12. **Copies of originals that are paid in full**
13. **Order Authorizing Sale**
14. **An Original Rescission of Default**
15. **Public Trustee’s Notice of Rights to Cure or Redeem**
16. **Notice of Seizure or a Notice of Vacancy of Property**
17. **Acknowledgment of receipt of the Notice of Election and Demand to Foreclosure**

When sending correspondence to your liaison, please include the Wells Fargo loan number on the cover sheet and address the envelope to your liaison as follows:

(Liaison Name)
 3476 Stateview Blvd.
 Ft Mill, SC 29715
 X7801-013

It is crucial that this information be listed on the outside of the envelope to ensure that it is received by your liaison in a timely fashion.

The following are contacts which may be useful to your office.

Qualified Written Requests

106 Loans
 Fax – 866-453-6315

Core Loans
 Fax - 866-278-1179

By Mail:
 Wells Fargo Home Mortgage
 Written Customer Contact
 PO Box 10335
 Des Moines IA 50306

Subpoena Department

X3801-02G
 8480 Stagecoach Circle
 Frederick, MD 21701

Appendix B - Funds Remittance Cover Sheet

**** Completed Cover Sheet should be uploaded to VendorScape or Desktop and must be sent with remitted funds to Wells Fargo.**

Date:

Re: Loan #:

Mortgagor Name:

Enclosed please find check(s) in the amount of \$_____, check # _____.

This amount represents the following:

Reinstatement: Remitted funds will bring the loan current including any outstanding fees and costs associated with the foreclosure proceeding. A copy of the reinstatement quote provided to the customer has also been included.

Payoff: Remitted funds represent a full payoff and the lien will be released to the mortgager. A copy of the payoff provided to the customer has also been included.

****Complete for both reinstatement and payoff funds received:**

Reinstatement/payoff amount	\$_____
Total recoverable fees and costs	\$_____
Total non-recoverable fees and costs	\$_____
Final invoice amount	\$_____

Refund/Overpayment: The fees and costs associated with the foreclosure were not as much as the estimated amount.

Judgment: The court has ordered Wells Fargo Home Mortgage to accept less than the full payoff. A copy of the Judgment provided by the court to the customer has also been included.

Redemption Funds: Remitted funds are from the mortgagor. Please provide an exact breakdown of the following included in the redemption funds. This information is required for IRS reporting purposes.

Please provide:

Principle	\$_____
Interest	\$_____
Late Charges	\$_____
Deferred Interest	\$_____
Prepayment Penalty	\$_____

Property Sold to Third Party: Remitted funds are not from the mortgager. The lien will not be released to the mortgager. A copy of the BID has also been included. (If funds are less than the amount bid at the sale, provide a detailed explanation of shortage)

Airborne tracking # _____

Remitted by: _____ Telephone # _____

Please see the Funds Address Matrix, Appendix D, for correct mailing addresses or wiring instructions.

Appendix C - Funds Address Matrix

Wells Fargo Home Mortgage and America's Servicing Company Correspondence				
Foreclosure Address Matrix				
Type	WFHM	ASC	Wiring Instructions	Reverse Mortgage
Foreclosure Correspondence	Wells Fargo Home Mortgage Attention: (Processor Name) MAC# X7801-013 3476 Stateview Blvd Ft. Mill, SC 29715	America's Servicing Co Attn: Foreclosure Default Mail MAC# X7801-02T 3476 Stateview Blvd. Fort Mill, SC 29715		
Foreclosure Reinstatement Checks	Wells Fargo Home Mortgage Attn : Foreclosure Cash MAC# X2302-04C 1 Home Campus Des Moines, IA 50328	America's Servicing Co Attn: Default Payment Supervisor MAC# X2302-04C 1 Home Campus Des Moines, IA 50328	Wiring Instructions for: Wells Fargo Attorney only- Wells Fargo Bank, N.A Beneficiary Bank ABA: 121000248 Beneficiary Bank Acct: 3000500412 Special Information for Beneficiary Apply funds to loan: xxxxxxxxxxxx Mortgagor: xxxxxxxxxxxxxxxxxxxxxx Sender's Name and Phone Number	
Foreclosure Payoff Checks	Wells Fargo Home Mortgage Attn : Payoffs MAC# X2302-045 1 Home Campus Des Moines, IA 50328	America's Servicing Co Attn: Payoffs MAC# x2302-045 1 Home Campus Des Moines, IA 50328	Wiring Instructions for: Wells Fargo Attorney only- Wells Fargo Bank, N.A Beneficiary Bank ABA: 121000248 Beneficiary Bank Acct: 4127400093 Special Information for Beneficiary Apply funds to loan: xxxxxxxxxxxx Mortgagor: xxxxxxxxxxxxxxxxxxxxxx Sender's Name and Phone Number	Wells Fargo Home Mortgage Reverse Mortgage Servicing MAC #X7802-018 3480 Stateview Blvd.. Fort Mill, SC 29715
Foreclosure Third Party Checks	Wells Fargo Home Mortgage/Conventional Claims Attn: Wanda Tucker Mac #X2302-04F 1 Home Campus Des Moines, IA 50328	America's Servicing Co/Conventional Claims Attn: Wanda Tucker Mac #X2302-04F 1 Home Campus Des Moines, IA 50328	Wiring Instructions for: Wells Fargo Attorney only- Wells Fargo Bank, N.A. Beneficiary Bank ABA: 121000248 Beneficiary Bank Acct: 3002182198 Special Information for Beneficiary	Wells Fargo Home Mortgage Reverse Mortgage Servicing MAC #X7802-018 3480 Stateview Blvd.. Fort Mill, SC 29715

			Apply funds to loan: xxxxxxxxxxxx Mortgagor: xxxxxxxxxxxxxxxxxxxx Sender's Name and Phone Number	
Foreclosure Redemption/Con firmation Checks	Wells Fargo Home Mortgage/Convent ional Claims Attn: Wanda Tucker Mac #X2302-04F 1 Home Campus Des Moines, IA 50328	America's Servicing Co/Conventional Claims Attn: Wanda Tucker Mac #X2302-04F 1 Home Campus Des Moines, IA 50328	Wiring Instructions for: Wells Fargo Attorney only- Wells Fargo Bank, N.A Beneficiary Bank ABA: 121000248 Beneficiary Bank Acct: 3002182198 Special Information for Beneficiary Apply funds to loan: xxxxxxxxxxxx Mortgagor: xxxxxxxxxxxxxxxxxxxx Sender's Name and Phone Number	Wells Fargo Home Mortgage Reverse Mortgage Servicing MAC #X7802-018 3480 Stateview Blvd.. Fort Mill, SC 29715
Any check for loans WFF Loans	N/A	Wells Fargo Home Mortgage Attn: Customer Operations-Cash Management Mac #X2302-04G 1 Home Campus Des Moines, IA 50328		N/A
Any check for loans WFHE Loans	N/A	Payment Processing 2324 Overland Ave MAC# B6955-01B Billings, MT 59102		N/A

Appendix D – State Required Mediation Memo

Memorandum

Date: 1/19/10
To: Wells Fargo Attorney Network
From: Wells Fargo Home Mortgage Foreclosure and Loss Mitigation
Subject: State required mediation Procedures

In an effort to ensure the flow of information between Wells Fargo and the Attorney Network is consistent, below are the preferred steps in communicating this process:

Foreclosure Attorney:

Notification of the Conference:

- Attorney will cancel the conference if the loan is in active bankruptcy
- Attorney will notify WF of the Mediation Conference as soon as notified by emailing one spreadsheet daily to FCDAP@wellsfargo.com
 - Please send any documents received prior to the scheduling of the mediation to the FCDAP mailbox.
 - Financial Documents/Packages – All emails with financial documents attached should list in the subject line as *****FINANCIAL DOCUMENTS & MEDIATION DATE*****.
 - **Please refer to the master contact list which indicates who your contact will be for mediation. The contact list is sorted by State first and then investor. If your applicable state is not available, then your contact will be assigned by investor.**
- Attorney will update MSP with tracking steps.
 - K74 MEDIATION / CONFERENCE SCHD
 To be added as soon as the Mediation/Conference is scheduled, actual date will be populated with the date the conference is scheduled.
 - K75 MEDIATION / CONFERENCE CLSD
 To be added as soon as the Mediation/Conference is scheduled, actual date should be populated when all mediations/conferences have been held or if the mediations/conferences are cancelled. If the mediations/conferences are cancelled then notification must be sent to Loss Mitigation at FCDAP@wellsfargo.com
- If this is a Desktop referral, go to the File Transfer Form on the Tool Menu, add the FC_Mediation_Conference_Direct_Source or FC_Mediation_Conference_InHouse_Referred or FC_Mediation_Conference_InHouse_Non_Referred process and complete the Mediation/Conference Scheduled DDF. This will automatically insert and complete the steps for you.

Leading up to and on the day of the Conference

- Attorney should refer to the master contact list to determine assigned negotiator.
- On the day of the hearing the attorney will dial the Negotiator's number first. If Negotiator is unavailable, the attorney will dial 1-877-238-4898

- If documents are received after the mediation is scheduled please send to the assigned negotiator with the subject line: *****FINANCIAL DOCUMENTS & MEDIATION DATE*****.
- Attorney will document the information provided by the WF negotiator and reference this information during the hearing
- If the conference is rescheduled the attorney will provide additional clarification on what is required
- Any evaluation form required to be filled out after mediation will need to be sent to the LM processor or negotiator assigned with a required return date.

***** VendorScape or Desktop needs to be updated with any actions taken by the attorney*****

For Wells Fargo Financial files, please enter the K74 and K75 steps accordingly but contact the case processor instead of FCDAP

For any questions or concerns please contact Nicole Miles-Todd at 803-396-4182 or
Nicole.S.Miles@wellsfargo.com

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Appendix E – MI Foreclosure/Mediation Bill

MI- Foreclosure/Mediation Bill Public Acts 29-31, - July 5, 2009

Mortgagees seeking to foreclosure on a property by advertisement to provide the borrower a pre-foreclosure notice of the right to request a meeting to negotiate a modification agreement and the availability of housing counseling, and to participate in a timely-requested modification negotiation, including recalculation of loan terms to determine if the borrower qualifies for a modification that meets specific criteria. The new requirements may also delay or restrict the mortgagee's ability to commence a foreclosure by advertisement.

Liaison Impact

1. At the attorney's request, verify if any payments are received.
- 2.

Attorney Procedures

1. A statement that within 14 days of mailing of notice/date of notice, the borrower may request a meeting with the Designee (attorney) to attempt a work out modification which could implement a 90 moratorium.
 - a. The borrower has 14 days to contact a housing counselor and request a meeting.
 - b. Housing counselor has 10 days to notify attorney in writing of the meeting request.
2. Within 7 days of the initial notice, another noticed must be published once in the same manner required for publishing notice of foreclosure sale. If housing contacts attorney, foreclosure will be on hold for 90 days from the date of the initial mailing. **(This step will be the new 1st legal-T01. The T28 has been added to track the notice of sale.)**
 - a. The attorney should utilize the mediation steps J80 and J81 steps to track the 90 day hold.
 - b. **J80 State Hold step- this step should be populated with an actual date when the borrower "opts in".**
 - c. **J81 State Resume step- This step should be populated with a forecast date 90 days from the J80 step. Actual date populated at the end of the 90 day hold.**

****In Desktop-Select Holds from the Tool Menu and place the FC Michigan State Hold. This will place the J80/J81 automatically in MSP.**

3. If the borrower opts in, Attorney will send out financial package and request that within 10 days to send financials back to attorney.
4. Attorney will schedule meeting and follow WF mediation procedures.
 - a. The K74 and K75 mediation steps should be placed on the loan per the loss mit mediation procedures (see [Litigation](#)).
5. If no modification is achieved, loss mit will need to communicate the criteria on which a mod was offered to compare with the statutory requirements.
 - a. **Prior to the expiration of the 90 day hold, please request status via the FCDAP@wellsfargo.com. (If your firm has multiple request, please send a spreadsheet with all affected loans)**
 - b. Statutory requirements of borrowers -housing related debt vs. gross income cannot exceed 38%.
 - i. Interest rate reduction , as needed, subject to a floor of 3% for a fixed term of at least 5 years
 - ii. An extension of the amortization period to at least 40 years
 - iii. Deferral of some portion of the amount of the unpaid principal balance of 20% or less until maturity, refinancing of the loan or sale of property.
6. If borrower would have qualified for statutory requirements, and no mod was approved, then the file must proceed judicial. **(Loss Mit has advised that all of their programs are as good if not better than the statutory requirements.)**

*****Effective 11/10/09. We have adopted additional procedures around how to handle MI files that do not opt into the MI 90 day hold.**

1. If the borrower does not opt in, yet loss mit has suspended the file prior to the sale being set, your firm is to proceed to sale and adjourn at that point.
 - a. If loss mit has suspended the foreclosure workstation, please email the foreclosure processor for further assistance
2. If funds have been received **prior** to the sale being set, your firm is to close and bill at that time.
3. If funds are received after the sale is set, your firm is the adjourn until:
 - a. -loss mit advises to close and bill due to permanent loan mod
 - b. loss mit advises to proceed w/foreclosure, your firm is okay to proceed w/foreclosure. (If there is any questions on how to proceed, please contact the case processor)

Appendix F– NJ Mortgage Stabilization Act

NJ Mortgage Stabilization Act (Amended effective July 2, 2009)

Expires January 1, 2011

The NJ Stabilization and Mortgage Relief Act was amended to include a subprime definition which was defined by the state and to further define “high cost” loans. The statute also clarified that the intent of the act is to actually “serve” a notice to qualified borrowers to inform them of their rights under the amended act.

Procedures for loans with complaints served on or after July 2, 2009;

- (1) Notice of the forbearance period must be served with the foreclosure complaint. The notice must contain certain information set forth in the amendment
 - a. Foreclosure attorney to determine which files qualify for the notice based on the following definitions and upon review of the TIL;
 - i. Subprime- The term "subprime" is now defined in the amendment. The definition requires the use of an index. We have identified a website that contains three indexes. Please add 1.5 percentage points to the lowest listed average in the three indexes for the time period when each loan closed. If the interest rate on the TIL is higher than the lowest index plus 1.5 percentage points, then the loan will be considered subprime within the meaning of the Act. The following index will be used; http://mortgage-x.com/general/national_monthly_average.asp?y=2006
 - ii. Default Docs has ensured the TIL will be available within 5 days of referral.
 1. Default docs will be checking for the TIL at day 45 of delinquency.
 2. If the TIL is not imaged, they will request from file management to have the TIL imaged.
 3. VendorScape has added the TIL as a document to add w/the referral.
 - iii. The definition of a high risk mortgage loan that appeared to refer to adjustable rate mortgages has been clarified to apply to mortgages with “a reset mortgage interest rate that increases the initial interest rate by two or more percentage points.” The attorney should review SER1/ARM1 to review the initial interest rate or origination rate. If the initial interest rate change increases the origination rate by 2 points or more, the loan is considered high risk.
- (2) The forbearance period will only take effect if the borrower “opts in” by notifying the lender in writing, within thirty (30) days after receiving the summons and complaint. (I suggest allowing the attorney to accept within 35 days of receipt to allow time for mailing, weekends, etc.)
- (3) The forbearance period will start on the day the lender receives written notice from the borrower; and, the lender must notify the Court of the starting and ending dates of the forbearance period.
 - a. Attorney to add J90- NJ State hold and complete the actual date upon receipt of the written correspondence from the borrower
 - b. J91 NJ Resume step should have a forecast date of 180 days and actual date to be populated at the end of the forbearance period.
 - c. Once notice is received from the borrower, all activity that would in any way advance the foreclosure is suspended. Appendix G – CO Foreclosure Deferment

Appendix G – CO Foreclosure Deferment

Colorado HB 1276 Foreclosure Deferment- August 1, 2009

Attorney Procedures

The new law, known as the “Time Out Bill” or the “Foreclosure Deferment Bill” will be effective for foreclosures filed after August 1, 2009. In summary, eligible borrowers can apply for and may receive a 90-day deferment of the foreclosure on their property if they qualify.

Liaison Responsibility

NA

Attorney Procedures

Within 15 calendar days of delivering a complete foreclosure package to the public trustee, the holder of the indebtedness must post a notice on the property advising the eligible borrower that they may qualify for a deferment.

1. If interested, the **Eligible Borrower** must contact a HUD-approved counselor within 20 calendar days of the posting of the special notice.
2. The counselor will promptly notify the holder and their attorney that he/she has been contacted by a borrower. Within 10 days of notification by the counselor, the holder must notify the counselor in writing of an address to be used for payments (as well as electronic payment information).
3. Within 30 days of the initial contact with the borrower, the counselor shall determine if the **eligible borrower qualifies** for the deferment. An **eligible borrower** is automatically disqualified if:
 - a. the property is abandoned
 - b. Gross waste has been committed on the property
 - c. The borrower is currently in Bankruptcy or within the last 24 months has received a discharge under Chapter 7 of the Bankruptcy Code or has received a discharge under Chapter 13 of the Bankruptcy Code in which the borrower received a modification of his loan.
4. If the counselor determines that the deferment is warranted, the counselor must certify to the public trustee the deferment within the initial 30-day time frame. At that time, the public trustee will place the foreclosure on hold, notify the foreclosure attorney, will cancel all publications and will begin to postpone the foreclosure sale week to week.
5. Foreclosure attorney will utilize the mediation procedures to place the file on hold for 90 days. **(See mediation procedures below)**
 - a. The K74 and K75 mediation steps should be placed on the loan per the mediation procedures. This will prompt Cash to accept payments accordingly.
6. During the 90-day deferment period the following shall occur:
 - a. Holder and borrower shall negotiate the opportunity for a workout of the subject loan.
 - b. The borrower shall make payments to the **attorney** in the amount of 66.667 percent of the monthly P&I payment due prior to the delinquency and if the debt was escrowed, 1/12 of the taxes and insurance due prior to the delinquency.
 - c. The attorney is to forward payments to;

Wires for WF Attorney only, this account is not disclosed to the mortgager.

Client 708 Wells Fargo Home Mortgage Attn: Foreclosure Cash MAC x2302-04c 1 Home Campus Des Moines, IA 50328	Client 106 America's Servicing Co Attn: Default Payment Supervisor MAC# x2302-04C 1 Home Campus Des Moines, IA 50328	Wiring Instructions for: Wells Fargo Attorney only- Wells Fargo Bank, N.A Beneficiary Bank ABA: 121000248 Beneficiary Bank Acct: 3000500412 Special Information for Beneficiary Apply funds to loan: xxxxxxxxxxxx Mortgagor: xxxxxxxxxxxxxxxxxxxx Sender's Name and Phone Number

- d. The first payment must be made within 5 days of the certification to the public trustee and due every 30 days thereafter during the deferment period.
- e. **Acceptance of these payments is not a waiver of the default.**

Mediation Procedures

Memorandum

Date: 06/29/09

To: Wells Fargo Home Mortgage Foreclosure Management

From: Wells Fargo Home Mortgage Compliance

Subject: State required mediation

In an effort to ensure the flow of information between Wells Fargo and the Attorney Network is consistent, below are the preferred steps in communicating this process:

Foreclosure Attorney:

Notification of the Conference

- Attorney will cancel the conference if the loan is in active bankruptcy
- Attorney will notify WF of the Mediation Conference as soon as notified by emailing the notification to FCDAP@wellsfargo.com.
 - Any documents needed in preparation for mediation as required by your applicable state (note, assignment, pmt history etc) should be requested via the FCDAP mailbox at the time attorney notify WF of mediation.
 - Please send any documents received prior to the scheduling of the mediation to the FCDAP mailbox.
- Attorney will update MSP with tracking steps.
K74 MEDIATION / CONFERENCE SCHED

To be added as soon as the Mediation/Conference is scheduled, actual date will be populated with the date the conference is scheduled.

K75 MEDIATION / CONFERENCE CLSD

To be added as soon as the Mediation/Conference is scheduled, actual date should be populated when all mediations/conferences have been held or if the mediations/conferences are cancelled. If the mediations/conferences are cancelled then notification must be sent to Loss Mitigation at FCDAP@wellsfargo.com.

- If this is a Desktop referral, go to the File Transfer Form on the Tool Menu, add the FC_Mediation_Conference_Direct_Source or FC_Mediation_Conference_InHouse_Referred or FC_Mediation_Conference_InHouse_Non_Referred process and complete the Mediation/Conference Scheduled DDF. This will automatically insert and complete the steps for you.

Leading up to and on the day of the Conference

- Attorney will be provided with an email from WF including the negotiator's name, telephone number, the borrowers loan number and the decisions that the negotiator will discuss as well as the alternative contact number - (866) 514-0070
- If documents are received after the mediation is scheduled please send to the assigned negotiator.
- Attorney will document the information provided by the WF negotiator and reference this information during the hearing
- On the day of the hearing the attorney will dial the Negotiator's number first. If Negotiator is unavailable, the attorney will dial (800) 514-0070
- If the conference is rescheduled the attorney will provide additional clarification on what is required
- Any evaluation form required to be filled out after mediation will need to be sent to the LM processor or negotiator assigned with a required return date.

***** VendorScape or Desktop needs to be updated with any actions taken by the attorney.*****

If you have any questions concerning this alert please contact Foreclosure Compliance at ForeclosureCompliance@wellsfargo.com.

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Appendix H – FL Mediation

FL Mediation Procedures April 27, 2009 (Updated 5/11/09)

The 19th, 11th and 1st Administrative Orders utilize the Collins Center to coordinate mediation meetings between a borrower and lender. Below are procedures that should be followed by the attorney and loss mit.

19th Circuit (Indian River, Martin, Okeechobee and St. Lucie Counties)

11th Circuit (Miami-Dade County)

1st Circuit (Walton, Okaloosa, Santa Rosa and Escambia)

1. At the time of referral, process server will conduct a pre-suit property investigation to be completed within 10 days.
2. If 1st legal is to be delayed as a result of the process server inspection, The T70 step should be entered with an actual date and tied to the T01- 1st legal completed step.
 - a. For FHA loans, prior to 1st legal expiration please email the FLAD@wellsfargo.com to indicate 1st legal delay. **(It is very important that your firm email the FLAD mailbox for FHA loans where 1st legal will be delayed prior to the expiration date.)**
3. Based on information from the inspection, vacant or occupied, Form A will be filed and a deposit of \$750 will be made pursuant to the Administrative Order.
4. Form A will include the loss mit rep info provided by Wells. Attorney to contact the rep to confirm they have the authorization to settle the case. (In most cases, this form will need to be amended due to change in Loss Mit rep.)
5. Upon notice from the Collins Center that the borrower has been contacted and a mediation date is to be coordinated, the following steps will be taken:
 - a. If mediation is required, the attorney is to: Notification of the Conference
 - i. • Attorney will cancel the conference if the loan is in active bankruptcy
 - ii. • Attorney will notify WF of the Mediation Conference as soon as notified by emailing the notification to FCDAP@wellsfargo.com
 - iii. • Attorney will update MSP with tracking steps.
 - b. K74 MEDIATION / CONFERENCE SCHD
To be added as soon as the Mediation/Conference is scheduled, actual date will be populated with the date the conference is scheduled.
 - c. K75 MEDIATION / CONFERENCE CLSD
To be added as soon as the Mediation/Conference is scheduled, actual date should be populated when all mediations/conferences have been held.
- Loss Mit will send the attorney the contact information of a negotiator: who will attend the mediation either telephonically or in person. Form A to be amended with this contact info
- d. If this is a Desktop referral, go to the File Transfer Form on the Tool Menu, add the FC_Mediation_Conference_Direct_Source or FC_Mediation_Conference_InHouse_Referred or FC_Mediation_Conference_InHouse_Non_Referred process and complete the Mediation/Conference Scheduled DDF. This will automatically insert and complete the steps for you.
- e. A letter should be sent to the borrower that includes the mediation date and financial affidavit...the letter will explain that to increase the likelihood of a successful settlement at mediation the financial information should be completed and forwarded back to our office as soon as possible but no later than one week before mediation. (Since the law does not require that the financial info should be sent before mediation, we will rely on your office to try and set timelines around this information to our borrower.)

6. We would like your office to be prepared to file motions to recover any advanced funds if the mediation is canceled by the borrower.

Wells Fargo will not be providing PSA unless it prohibits us from modifying a loan.

Appendix I – FL 12th Circuit Mediation

FL- 12th Circuit (Manatee, Sarasota and Desoto Counties)

Mediation Procedures

6/05/09 (Revised 11/4/09)

The 12th Circuit is not a tradition mediation program but promotes contact between lenders/servicers and borrowers. This is accomplished by sending a notice to the borrowers inviting them to participate in the Homestead Foreclosure Conciliation Program. If the borrowers contact the attorney, the attorney will schedule the conference and forward the date, time and contact info to loss mit.

1. Attorney will file the compliant
2. Attorney will attach a copy of the notice to complaint and serve. Once service is complete and occupancy has been determined. Attorney will send letter inviting borrower to the Homestead Foreclosure Conciliation Program. Letter will only be sent on owner occupied (will cover homestead) properties. The borrower will have to contact the attorney to state that they wish to participate.
3. The borrower has 45 days from the day the letter is sent to contact lender. (It is the responsibility of the borrower to make contact with the lender)
4. The FCL will be on hold during this 45 day period. Attorney is to insert the J80 Regulatory hold step with an actual date when the notice is sent and the J81 Regulatory resume step with a forecast date 45 days in advance of the J80 actual date.
5. If the borrower requests to participate in the Homestead Foreclosure Conciliation Program, attorney is to schedule a date and time with the borrower.
6. Once the date and time is scheduled, attorney is to email the FCDAP mailbox with the date and time of the call and any other pertinent information.
7. Loss mit must update VendorScape or Desktop to state the outcome of the call.
8. Once 45 days has expired, attorney will view VendorScape or Desktop (or view NOTS) to see what was the outcome, if no response attorney will complete affidavit, update J81 actual date and resume foreclosure.

Appendix J – OR Modification Request Form

OR- SB658- Effective September 26, 2009

SB 628 amends the form of Notice of Foreclosure to include a statement about the borrower's right to ask to modify the loan. A "Modification Request Form" must be included with the Notice of Foreclosure. The Modification Request Form must be returned to the address stated in the form within 45 days of the borrower receiving the Modification Request Form. The statute also requires the beneficiary or the beneficiary's agent to provide the trustee with an affidavit, which will state the beneficiary's loss mit efforts.

Attorney Procedures

1. Include with the Notice of Foreclosure a Modification Request Form.
 2. Borrower must return this form to the attorney within 30 days of receipt.
 - a. The borrower can request a loan mod and/or;
 - b. Request a meeting with the lender.
 3. Attorney will forward a copy of the Modification Request Form and loss mit affidavit to FCDAP@wellsfargo.com.
 4. Attorney to follow up with the FCDAP Mailbox in 2 weeks to determine status and to obtain affidavit of loss mit efforts.
 5. If no response, Attorney will send a 2nd request for the loss mit affidavit after 30 days to the FCDAP Mailbox and copy James.Cooke@wellsfargo.com on the request.
 6. Upon expiration of the 45 days, attorney will send a 3rd request in the same manner as the 2nd request.
- **If no response after the 3rd request, attorney will cancel the foreclosure for non compliance.**

Loss Mit Procedures

1. Upon receipt of the Modification Request Form and/or borrower request for a meeting, loss mit rep will contact the borrower to discuss options and, if applicable, schedule a meeting by telephone (or conduct the meeting during the initial contact).
 2. Loss mit will monitor the FCDAP mailbox for status request from the attorney and for the loss mit affidavit.
 3. Loss mit is responsible for completion of the loss mit affidavit based on outcome of the customer contact.
- ** Affidavit must be returned to the attorney within 45 days of receipt or foreclosure could be terminated.**

Appendix K– SC Administrative Order

Mediation Procedures

In an effort to ensure the flow of information between Wells Fargo and the Attorney Network as required by the May 9th 2011 Administrative order, below are the preferred steps in communicating this process.

Foreclosure Attorney:

Upon notification of Borrower to request for Foreclosure Intervention:

1. Attorney will notify FCDAP via FCDAP@wellsfargo.com upon notification of borrowers request for foreclosure intervention. In the subject line please state: *****SC-Request for Foreclosure Intervention*** (Please include an executed copy of the foreclosure intervention notice in the email.**
 - a. Attorney to upload a copy of the foreclosure intervention form to VendorScape
 - b. Financial Documents/Packages – All emails with financial documents attached should list in the subject line as *****SC-FINANCIAL DOCUMENTS *****
2. Attorney will update Fidelity with tracking steps.
 - a. K74 MEDIATION / CONFERENCE SCHD .
Actual date will be populated with the date the borrower executed the notice.

K75 MEDIATION / CONFERENCE CLSD

Actual date should be populated upon conclusion of the foreclosure intervention program.
3. Mediation team to determine the borrower needs as indicated on the FCL intervention form and advise attorney as to what documentation is needed in order to complete loss mit review.
 - a. Mediation team is to ensure attorney is aware of any applicable timeframes required to be adhered with for receiving documentation.
4. Attorney is to request all documents needed from the borrower to facilitate a loss mit review and the applicable timelines for receiving documentation.
 - a. If documents are not received in a timely manner, attorney is to contact FCDAP mailbox to determine if loan has been denied or to determine the updated status.
5. Once documents are received, FCDAP will review and update weekly status report on the decision rendered.
 - a. If a loan mod is approved, FCL workstation will be suspended or removed. Communication will be sent via VendorScape and via weekly spreadsheet.
 - b. Any agreement will be communicated to the attorney in writing.
 - i. Short sale agreement or DIL, attorney is to place foreclosure on hold for 90 days and follow up via weekly spreadsheet to determine if agreement has been breached.
 - ii. Trial mod prior to 1st payment. Attorney is to stay foreclosure proceedings for 90 days and monitor progress via weekly spreadsheet.
 - iii. Trial mod after 1st payment, foreclosure will be suspended. Weekly spreadsheet will indicate if borrower breaches trial mod.
 - c. If the loan is denied, a denial letter will be sent to the borrower, status report will be updated and attorney should communicate the denial to the borrower.

If the Foreclosure Intervention form was not returned to your firm within 30 days, perform the following:

1. After the expiration of the 30 foreclosure intervention form please verify the status of Loss Mitigation by reviewing the LM1 screen.
 - a. If the LM screen is not active and has not been active within the last 30 days, please proceed with foreclosure
 - b. If the LMT screen has been active within the last 30 days
 - i. Review the LM denial to determine the reason for the denial
 - ii. If additional information is required, please contact the foreclosure case processor and request any additional information that is needed.
 - c. If the LMT1 screen is active, do not proceed.

***** VendorScape needs to be updated with any actions taken by the attorney*****

For Wells Fargo Financial files, please enter the K74 and K75 steps accordingly but contact the case processor instead of FCDAP

For any questions or concerns please contact

Nicole Miles-Todd- Project Manager Foreclosure at 803-396-4182 or Nicole.S.Miles@wellsfargo.com

James Cooke- Manager Loss Mitigation Mediation Team 803-396-7494 or James.Cooke@wellsfargo.com

Appendix L– NV Mediation

NV Mediation Procedures

The NV Mediation Election Program applies to any grantor or person who holds title of record and is the owner occupant of a residence as to which a notice of default and election to sell has been recorded on or before July 1, 2009. A form called the Election/Waiver of Mediation is sent by certified mail by the attorney to the borrower. The borrower has 30 days from mailing to respond by completing the form and mailing to the trustee and the administrator. Each party at that point has 10 days to deposit \$200 mediation fee to the administrator. Failure to do so can result in the non requirement of mediation. Loans where the NOD was filed prior to July 1, 2009 can request mediation if the lender agrees to participate.

Attorney Procedures

1. Along with the Notice of Default and Election to Sell, attorney shall attach a copy of the Election/Waiver of Mediation Form to all owner occupied residences in NV.
 - a. For "contact information at the foreclosing lender who would have authority to negotiate a loan modification" the attorney should include the following;

Chandra Tafolla
 3476 Stateview Blvd,
 Ft Mill, SC, 29715
 1-800-662-5014

2. If the borrower responds by completing the Election request form and mailing it to the trustee and Mediation Administrator, then the attorney is the follow WF Mediation Procedures attached.
3. Within 10 of receipt of the borrowers election to mediation, both parties must deposit \$200 to the Mediation Administrator
 - a. The fee is non-recoverable
 - b. The mediation shall be schedule no later than 90 days after the Notice of Default and Election to Sell.
4. Attorney should send an email to advise the following departments of notification of mediation request;
 - a. FCDAP@wellsfargo.com (loan modification package)
 - b. SpecialtyResolutionteam@wellsfargo.com (short sale value and BPO)
 - c. DocOrderingHMEC@wellsfargo.com (Certified Note, Deed, Affidavit)
 - d. The subject of the email should include:
 - i. NV mediation (deadline of when documents required)

****Due to timing issues, please do not wait until a date is scheduled for mediation. Please notify Wells as soon as possible at the contacts listed above.**

5. The body of the email should include a list of all documents needed, date of mediation and deadline of when documents are needed.
6. All completed documents will need to be forwarded to FCDAP mailbox prior to the deadline. FCDAP will be required to send a completed package to the attorney.
7. Default documents will be required to send a physical package but should send FCDAP a tracking number which is to be provided with the completed mediation package.

8. If your office experience with the Administrator's office administering certificates for files that did not opt into the NV Mediation program, please insert the following log code: **NVCERT (Loan Delayed due to NV Mediation Process)**.

Loss Mit

1. Upon notification of mediation, Loss Mit should prepare and submit to the mediator under confidential cover a nonbinding proposal for resolving the foreclosure. Additionally, the beneficiary of the deed of trust shall, under confidential cover, provide to the mediator the evaluative methodology used in determining the eligibility or non-eligibility of the grantor or the person who holds the title of record for a loan modification.
2. FCDAP will be responsible for gather all documents to include short sale value, BPO/appraisal, Certified Note, Deed and affidavit required to complete a mediation package for the state of NV.

Default Docs

1. Upon notification of mediation, review file for certified copies of note, deed and any endorsements/allonges.
2. If certified documents are not available, custodian file must be ordered, copies must be certified and sent to attorney. ****Original documents should only be sent on an escalation basis.**
3. Default docs must send fed ex tracking number to FCDAP mailbox 7 days prior to mediation.

Short sale team

1. The beneficiary of the deed of trust or its representative shall produce the most current and appropriate appraisals that it has with respect to the real property that is the subject of the notice of default and shall prepare an estimate of the "short sale" value of the residence that it may be willing to consider as a part of the negotiation if loan modification is not agreed upon.
2. The BPO and estimated value must be provided at least 7 days prior to mediation.

Escalation Request should go to the following:

Missing short sale value and or BPO-	Gwen Oberg
Missing Mediation package/negotiator-	James Cooke

Appendix M– Mediation Master Contact List

If you are an attorney calling for a scheduled mediation, please first call 1-877-238-4898
If you are unable to reach a negotiator at the number listed above, contacts based on the investor are listed below.

Master List of Back-Up Contacts 6:00AM – 2:30PM

ASC/HCS/FHLMC/FHA Mediation
Kelton Washington (803)396-4124
kelton.washington@wellsfargo.com
Ann Cooper (803)396-6362
ann.cooper@wellsfargo.com
Erika Banks (803) 396-7574
erika.banks@wellsfargo.com

B&P Mediation
Leah Schwartz (803) 396-7012
leah.schwartz@wellsfargo.com
Susan Rowles (803)396-6762
susan.rowles@wellsfargo.com
Ann Cooper (803)396-6362
ann.cooper@wellsfargo.com
Erika Banks (803) 396-7574
erika.banks@wellsfargo.com

Dual Lien Mediation
Stephanie Michael (414)214-4952
stephanie.a.micheal@wellsfargo.com
Jennifer Wenzel (414)214-4649
jennifer.l.kingsfield@wellsfargo.com

FHA Wells Owned Mediation
Susan Rowles (803)396-6762
susan.rowles@wellsfargo.com
Donald Johnson (803) 396-6428
Donald.johnson@wellsfargo.com

FNMA Mediation
Leronne White – 803-396-7493
Leronne.white@wellsfargo.com

Liquidation Mediation ASC/HCS
Curtis Johnson (414) 214-9161
curtis.johnson@wellsfargo.com
Eliza Melendez (414)214-4964
eliza.melendez@wellsfargo.com
Kathy Rintelman (414)214-4953
kathy.rintelman@wellsfargo.com

Liquidation Mediation (Non ASC/HCS)

Paul Polenski (803) 396-7658
Paul.C.Polenski@wellsfargo.com

Nevada Mediation
 Khrystal Gose (803)-396-4104
khrystal.d.gose@wellsfargo.com
 Susan Rowles (803)396-6762
susan.rowles@wellsfargo.com
 Leah Schwartz (803) 396-7012
leah.schwartz@wellsfargo.com

Reverse Mortgage Mediation
 Jael Reevey (803) 396-7624
jael.d.reevey@wellsfargo.com

VA Mediation
 William Peterson (803) 396-6493
william.peterson@wellsfargo.com
 Tomika McKinney (803) 578 8799
tomika.mckinney@wellsfargo.com
 Sharon C. Smith (803)396-6212
sharon.c.smith@wellsfargo.com

Wells Fargo Financial Mediation
 ASC Foreclosure Info WFF –
ASC.Foreclosure.Info.WFF@wellsfargo.com
 Please send notification through VendorScape or Desktop to the assigned processor.
 **Please note mediations are attended by a representative of Wells Fargo Financial
 In the event of an escalated situation, contact ASC Foreclosure Info WFF@wellsfargo.com

Wells Owned Mediation
 Michelle D McIlwain (803) 396-6409
Michelle.D.McIlwain@wellsfargo.com
 Jeanette Hess (803) 396-6998
jeanette.hess@wellsfargo.com

If you are an attorney calling for a scheduled mediation, please first call 1-877-238-4898
 If you are unable to reach a negotiator at the number listed above, contacts based on the investor are listed below.

Mediations Scheduled after 2:30 PM EST

ASC/HCS Mediation
 James Murdaugh (803) 396-7587
James.F.Murdaugh@wellsfargo.com
 Corey Duncan (803) 578-8771
Corey.Duncan@wellsfargo.com
 Vivian Hicks (803) 396-4113
vivian.y.hicks@wellsfargo.com

Nevada Mediation
 Phil Cargioli (803) 396-7508
Philip.Cargioli@wellsfargo.com
 Vivian Hicks (803) 396-4113
vivian.y.hicks@wellsfargo.com

Corey Duncan (803) 578-8771
Corey.Duncan@wellsfargo.com

B&P Mediation
 Miranda McElroy (803) 396-4242
Miranda.A.McElroy@wellsfargo.com
 Phil Cargioli (803) 396-7508
Philip.Cargioli@wellsfargo.com

FHLMC Mediation
 Sabrina Douglas (803) 396-6053
Sabrina.Douglas@wellsfargo.com
 Corey Duncan (803) 578-8771
Corey.Duncan@wellsfargo.com

FNMA Mediation
 James Murdaugh (803) 396-7587
James.F.Murdaugh@wellsfargo.com
 Vivian Hicks (803) 396-4113
vivian.y.hicks@wellsfargo.com
 Sabrina Douglas (803) 396-6053
Sabrina.Douglas@wellsfargo.com

FHA Mediation
 Phil Cargioli (803) 396-7508
Philip.Cargioli@wellsfargo.com
 Miranda McElroy (803) 396-4242
Miranda.A.McElroy@wellsfargo.com
 James Murdaugh (803) 396-7587
James.F.Murdaugh@wellsfargo.com

VA Mediations
 Lamarc Dawkins (803) 396-6212
Lamarc.A.Dawkins@wellsfargo.com

Appendix N – FL- Verification of Foreclosure Complaints

On February 11, 2010, The Florida Supreme Court Task force ruled that any foreclosure complaints initiated in the state of FL must be verified by the lender/servicer.

In order to comply with this requirement, 3 of 4 of our foreclosure attorneys created secure web portals to deliver a copy of the complaint and declaration for signature. Non-Portal attorneys are emailing their complaints to a mailbox monitored by DOS.

Procedures:

1. Attorney (Default Law and Marshal Watson) to upload copy of complaint and declaration to web portal for verification.
2. DOS staff logs into the web portals and monitors the web portals and the FL Declaration mailbox daily to verify complaints
3. After verifying the complaints, DOS signs the declaration and sends the declarations via overnight mail to applicable attorney's office.
4. Attorney files complaint with attached verification forms.

Secure Web portal address

FL Default Law-

<https://extranet.defaultlawfl.com/Default.aspx>

Marshal Watson's web portal

<http://cms.marshallwatson.com/>

Non-Portal Attorneys-

Email copy of Complaint, supporting documentation (Note and Mortgage), and Declaration to FLDeclarations@wellsfargo.com

Appendix O –CT Standing Orders (Effective September 1, 2010)

On August 4, 2010 the CT Superior Court issued a standing order to ensure no foreclosure proceeding is initiated unless the borrower has had an opportunity to apply for relief under a federal loss mitigation program. Any foreclosures pending as of September 1, 2010 where Judgment has not yet entered must have the Affidavit Federal Loss Mitigation Programs executed and filed with Court. Also any foreclosure matters as of September 1, 2010 which previously had Judgments of Foreclosure By Sale entered but which Sales have not yet been approved by the Court must have the Affidavit Federal Loss Mitigation Programs executed and filed with Court. Going forward, all foreclosure complaints filed on or after September 1, 2010 must be accompanied by a fully executed Federal Loss Mitigation Affidavit.

Procedures

1. Once file is referred, attorney to prepare Federal Loss Mit Affidavit and send to Default Doc mailbox at ForeclosureCompliance@wellsfargo.com
2. Default Docs will print Federal Loss Affidavit and code Fidelity with the log code FCREGA – Foreclosure Regulatory Affidavit to acknowledge receipt of the affidavit.
3. Affidavits will be sent to Foreclosure for execution within 24 hours of receipt.
4. The Fort Mill Foreclosure Loss Mitigation Affidavit team will be executing the affidavits.
5. Foreclosure to return the executed documents within 24 hours of receipt to Default Docs.
6. Default Docs is to image the executed affidavits and send to the applicable attorney.
7. If the Foreclosure is delayed due to this requirement, firm will use the J80 Regulatory Hold step and the J81 Regulatory Resume step to track the delay.

Appendix P – VA Appraisal Ordering Process

- **Attorney:** To ensure accurate ordering of VA Appraisals, your office must follow the step-by-step VA Appraisal Ordering process guide provided below. This will ensure that all VA Appraisals are ordered in accordance with WFHM guidelines:
 - 45 days prior to sale, order VA appraisal through the VA Appraisal system utilizing “SAP” Appraisal type and Servicer ID number 3300020000.
 - ****Please note**** If a sale can be set within 45 days of referral, order the appraisal at the time of referral.
 - Input U18, ORDER VA APPRAISAL, step with actual date at time of order. This will automatically complete the step.
 - Follow up with the VA Appraiser beginning 10 days after placing order to ensure completion.
 - Once completed insert the U09, VA APPRAISAL COMPLETED, step with the actual date.
- ****Please Note**** The required steps can be added through VendorScape. Under Task, choose “Add” then “Production Task – Received VA Appraisal”. When adding the event in VendorScape the U09 – VA Appraisal Completed will automatically be placed into MSP.

In Desktop, complete the Order VA Appraisal event. This will automatically add and complete the U18 step. Once the appraisal has been received, complete the VA Appraisal Received event. This will automatically complete the U09 step.

Step-by-Step VA Appraisal Ordering Process Guide

- Access webLGY link (vip.vba.va.gov)
- **PAGE 1:** (Request Appraisal/ LIN Only) (Exhibit A)
 - o Click “Request Appraisal Link”
- **PAGE 2:** (Request Appraisal) (Exhibit B)
 - o Select Appraisal Type
 - Go to Liquidation Appraisal
 - Select SAP - - Servicer Appraisal Processing Loans

Once you click on the circle next to SAP, the information below will appear (Exhibit C)

- o Please Select a Role:
 - Select Servicer
- o Loan Number
 - Insert VA Case Number
- o Social Security Number
 - Veteran’s Social Security Number
 - If error received:
 - Re-validate the SSN and resubmit
 - Contact the Regional Loan Center (Loan Administration Department)
 - o If Regional Loan Center is not able to provide guidance, contact your liaison
- o Validate Appraisal Type
- o SAP—Servicer Appraisal Processing Loans should be selected

- o If not, change to SAP at this time
- o Click Submit

NOTE: If any selection other than SAP is made, this may cause a delay in issuing the NOV, thus delaying the overall foreclosure timeframe. Your office will be held accountable for any additional fees or costs as a result of these delays.

- **PAGE 3: (Property Information Page) (Exhibit D)**

- o Validate Property Address
 - Should match the property address received with the referral
 - If accurate, select "valid"
 - If inaccurate, select "invalid"
 - o If Address is invalid, mark invalid box and click submit. This will take you back to the Request Appraisal/LIN only page and instruct you to contact the Regional Loan Center to have the address corrected. Below is a list of each Regional Loan Center, phone #'s and email address's

o

- **Page 4: (Request Single Property Appraisal: SAP case) (Exhibit E1 – E7)**

- o Fill in all applicable sections (use matrix below)
- o Validate all information BEFORE clicking SUBMIT
 - 1805 form will appear

Request Single Property Appraisal Matrix	
Box Name	Action Required
BOX 1: Requestor Information (Exhibit E1)	
• Requestor Identification	• Servicer
• Requestor Identification Number	• 3300020000 (Required for every Wells Fargo File)
• Sponsor Indicator	• N/A
• Sponsor Identification Number	• N/A
• Requestor Phone Number , Extension, Name	• Requestor Phone Number: Person(s) from attorney's office ordering the appraisal. • Extension: Peron(s) from attorney's office extension, where applicable • Name: Full name of person, at the attorney's office, ordering the appraisal
• Email Address	• Person from the attorney's office that ordered the appraisal
BOX 2: Person Authorizing this Request (Exhibit E2)	
• Name	• Person ordering the appraisal OR the person the firm has provided delegated authority
• Title	• N/A
• Phone Number	• Person authorizing the request (This should not be a Wells Fargo number)

BOX 3: Property Information (Exhibit E3 split in 2 screens)	
• Condo Appraisal	• N/A
• Manufactured Home Liquidation	• If a manufactured home, select "yes", if not, select "no"
• Property Address	• Verify all data (Street Number – County)
• Legal Description of Property	• Insert legal description, if legal description is not available, use PARCEL ID
• Title Limitation and Restrictive Covenants	• N/A
BOX 4: Firm or Person Making Request/Application (Exhibit E4)	
• Name	• Law Firm Name
• Address	• Law Firm Address
• City	• Law Firm City
• State	• Law Firm State
• Zip	• Law Firm Zip Code
BOX 5: Applicable Lender Point of Contact (Exhibit E5)	
• Name	• VA App Inquiry
• Work Phone Number	• (803) 396-6809
• E-Mail	• vaappinquiry@wellsfargo.com
BOX 6: Owner Information (Exhibit E6)	
• First Name	• First name of homeowner
• Middle Initial	• N/A
• Last Name	• Last name of homeowner
• Address	• N/A
• City	• N/A
• State	• N/A
• Zip	• N/A
• Phone Number	• Phone # of homeowner –If unavailable – place (222) 222-2222 and make note in the email/fax that you send to the VA appraiser
BOX 7: Property Facts (Exhibit E7)	
• Property Occupancy	• Occupied by owner, occupied by tenant or Vacant – Choose what is stated in VendorScape or Desktop/PIR1
• Refunding indicator	• N/A
• Broker Name	• If loan is a short sale, place the broker name in Box (Attorney's, this is not required)
• Phone Number	• Phone number of Broker or Broker's office (Attorney's, this is not required)
• Keys Location Address	• N/A
• Phone number	• N/A
• Building Information	• N/A
• Number of Living Units	• 1 Family unit, unless known different

• Street Access	• Leave as "Public"
• Street Maintenance	• Leave as "Public"
• Sales Date	• If actual F/C date has been set, enter date

- **Submit (Exhibit E8)**

- o Once all information has been placed and verified as correct, click the submit button on the bottom of the page. Your 1805 VA appraisal order form will generate

The VA appraiser should email and fax all information below (See exhibits F and G) and a copy of the 1805 should be attached with each. The VA appraiser's name and all contact information will be in box 41 on the 1805.

- **PAGE 5a (1805 Form) (printing to Adobe) (Exhibit F)**

- o Print 1805 form to Adobe
- o Save to desktop or email directly from the adobe 1805 copy
- o Once printed, email a copy of the 1805 and all stated information below in **Exhibit F** to the VA appraiser

- **Page 5b (1805 form) (Printing paper copy of Faxing) (Exhibit G)**

- o Print a paper copy of the 1805
- o Use the fax cover sheet provided (Exhibit H) and provide all data
- o Fax a copy of the 1805 and the cover sheet to the VA Appraiser.
- o Fax # is located in BOX 41 within the 1805

- **Information required to be sent to the VA Appraiser**

- o Subject line should state **"New VA SAP Liquidation Appraisal VA case # xx-xx-x-xxxxxxx"**
- o Body of Email should have all information
 - Homeowner's Name
 - Phone # (if applicable, if a phone # is not available, state "Phone # for the homeowners is not available")
 - **This statement should be in each email/fax sent to the appraiser**
 - If additional information is required by the appraiser, the VA appraiser should email or call the contact information in box 29 on the 1805
 - **This statement should be in each email/fax sent to the appraiser**
 - If the subject property is occupied and 3 attempts to gain interior access can be documented, an exterior inspection can be completed. If you feel the property is vacant (with the exception of Florida) an interior inspection must be completed unless written permission from your Regional Loan Center has been obtained. Should you require interior access, please refer to box 29 in the 1805 for all contact information
 - **This statement should be in each email/fax sent to the appraiser**
 - Once the report is completed, upload your report into the WEBLGY VA system. Include a copy of your invoice with your report (per VA guidelines). Once your report has been reviewed and the NOV has been issued, a copy of your invoice will be sent to the proper department for processing. Please allow 20 business days to receive a check. At this time, there is no need to email a copy of your invoice to Wells Fargo
 - **This statement should be in each email/fax sent to the appraiser**
 - Should you require guidance in completing your report, Please contact your Regional Loan Center

- Should the Attorney's office require assistance during the process, they should contact their Liaison.

Email Addresses and Phone #'s to each Regional Loan Center

- **Atlanta** – Georgia, N and S Carolina, Tennessee
 - o 316lgycnv@vba.va.gov
 - o 888-768-2132
- **Cleveland** – Delaware, Indiana, Michigan, New Jersey, Ohio, Pennsylvania
 - o 325cnv@vba.va.gov
 - o 800-729-5772
- **Denver** – Alaska, Colorado, Idaho, Montana, Oregon, Utah, Washington, Wyoming
 - o 39/va262@vba.va.gov
 - o 888-349-7541
- **Honolulu** – Hawaii
 - o No email
 - o 808-433-0480
- **Houston** – Arkansas, Louisiana, Texas, Oklahoma
 - o cv49.vbahou@va.gov
 - o 888-232-2571
- **Manchester** – Connecticut, Massachusetts, Maine, New York, Rhode Island, Vermont
 - o nh_appr@vba.va.gov
 - o 800-827-6311
- **Phoenix** – Arizona, California, Nevada, New Mexico
 - o vavbapho/ro/cvgc@vba.va.gov
 - o 888-869-0194
- **Roanoke** – Washington DC, Kentucky, Maryland, Virginia and W. Virginia
 - o vavbaroa/ro/cv@va.gov
 - o 800-933-5499
- **St. Paul** – Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, N and S Dakota, Wisconsin
 - o vaappraisal.stpaul@va.gov
 - o 800-827-0611
- **St. Petersburg** – Alabama, Florida, Mississippi
 - o fl/homeloan@vba.va.gov
 - o 888-611-5916

Exhibit A

WebLGy - VA Loan Guaranty System

WebLGy 11.1.1

JACOB ELAND
January 13, 2011

HOME LOAN ELIGIBILITY CONTACT RLC

Recently Accessed Loans

- 77-77-6-5104931 ALICIA GILBERT
- 44-44-6-3539814 RICHARD CARLSON
- 33-33-6-0221642 KAITLYN CORNWELL
- 33-33-6-0221642 KAITLYN CORNWELL
- 43-43-6-1278719 LEONARD SABORIT
- 21-21-6-0339250 TYRONE WILKINS
- 28-28-6-0743602 CHARLES MAPLE
- 26-26-6-0640698 STERLING SAUNDERS
- 30-30-6-0355171 MARK KENNEDY
- 28-28-6-0701501 JAMES STEIN

SAR WorkSpace

Obtain New VA loan number (LIN) for IRRRL Order IRRRL

Obtain New VA loan number (LIN) Request Appraisal

Loan Links Request Appraisal

Enter New Loan

Loan Inquiry

Enter LIN

Advanced Search

Funding Fee Inquiry

Lender ID by Date

Loan Status Inquiry

Eligibility Links

Automated Certificate of Eligibility Search

Prior Loan Validation Reports

Eligibility Counts

Old Ace Search

Useful LIN Lists

Pending NOV - SAP or LPL

NOV Saved Not Issued

NOV Issued in the past 30 Days

Appraisals Requested in the past 30 Days

Appraisals Uploaded in the past 30 Days

Suspended LIN

LIN Inquiry

LIN*

Submit

Advanced Search

https://webgly.vba.va.gov/WebLGy/RequestAppraisalLanding.do

Exhibit B

WebLGy - VA Loan Guaranty System

WebLGy 11.1.1

JACOB ELAND
January 13, 2011

HOME LOAN ELIGIBILITY CONTACT RLC

Request Appraisal

Request Appraisal/LIN Only

This function assigns a loan number and appraiser to a single property case. Liquidation cases can be initiated with this screen. Required/Mandatory Fields are denoted with *

Select Appraisal Type *

Origination Appraisals

* If this request is for an Interest Rate Reduction Refinancing (IRRRL) loan, obtain a new VA loan number with the order IRRRL function. A VA appraisal is not required for an IRRRL loan.

☐ LAPP -- Lender Appraisal Processing Loans

☐ IND -- Individual CRV

Liquidation appraisals

☐ LGI -- Liquidation of a VA Guaranteed Loan

☐ SAP -- Servicer Appraisal Processing Loans

Submit

Español | VA Forms | Facilities Locator | Contact the VA | Frequently Asked Questions (FAQs)
Privacy Policy | Web Policies & Important Links | Annual Performance and Accountability Report
Freedom of Information Act | Small Business Contacts | Site Map

Done

Exhibit C

WebLGY - VA Loan Guaranty System

WebLGY 11.1.1

HOME LOAN ELIGIBILITY CONTACT RLC

This function assigns a loan number and appraiser to a single property case. Liquidation cases can be initiated with this screen.
Required/Mandatory Fields are denoted with *

Select Appraisal Type *

Origination Appraisals
 * If this request is for an Interest Rate Reduction Refinancing (IRRRL) loan, obtain a new VA loan number with the order IRRRL function.
 A VA appraisal is not required for an IRRRL loan.
☐ LAPP -- Lender Appraisal Processing Loans
☐ IND -- Individual CRV

Liquidation appraisals
☐ LGI -- Liquidation of a VA Guaranteed Loan
☒ SAP -- Servicer Appraisal Processing Loans

Please Select a Role: *

Loan Number *

Social Security Number *

Español | VA Forms | Facilities Locator | Contact the VA | Frequently Asked Questions (FAQs)

Done Internet 100%

Exhibit D

WebLGY - VA Loan Guaranty System

WebLGY 11.1.1

HOME LOAN ELIGIBILITY CONTACT RLC

Request Single Property Appraisal: SAP Case

Property Information

Property Address

Street Number 114

Street Name BALDWIN BOULEVARD

City SHIPPENSBURG

State PA

Zip 17257

County CUMBERLAND

☒ Valid ☐ Invalid

Exhibit E1

1. Requester Information	
Requester Identification*	Servicer
Requester Identification Number*	
Sponsor Indicator	Servicer
Sponsor's Identification Number	
(Can not have both Requester and Sponsor as Servicer) (Required if Requester is NOIH-LAPP Approved)	
Institution's Case Number	
Requester Phone Number, Extension, Name *	
(Please provide full 10-digit phone number followed by the Requester's last name)	
E-mail Address *	JACOB.M.ELAND@WELLSFARGO
(Address where notification will be sent when Appraisal Report is	

Exhibit E2

2. Person Authorizing This Request	
Name *	
Title	
Phone Number*	

3. Property Information- verifyAddress

Exhibit E3 (Split in 2 separate screen)

3. Property Information- verifyAddress	
Condo Appraisal?	
Note: Condo must be approved for VA financing purposes prior to loan closing. Please enter condo name to search our database for VA Approved Condo	
Condo ID	
Condo/PUD Builder	
Manufactured Home	No
Liquidation *	

Manufactured Home Liquidation *	No ▼
Property Address	
Street Number	114
Address One Text	BALDWIN BOULEVARD
Address Two Text	
City	SHIPPENSBURG
State	PA
Zip	17257
County	CUMBERLAND
Legal Description of the Property *	
Title Limitations and Restrictive covenants	

Exhibit E4

4. Firm or Person Making Request/Application	
Name	
Address	
Address One Text	
Address Two Text	
City	
State	▼
Zip	-
5. Applicable Lender Point of Contact(POC)	

Exhibit E5

5. Applicable Lender Point of Contact(POC)	
Name *	
Work Phone Number *	
E-mail *	
6. Owner Information	

Exhibit E6

6. Owner Information	
First Name *	
Middle Initial	
Last Name *	
Address	
Address One Text	
Address Two Text	
City	
State	Owner City
Zip	-
Phone Number	

7. Property Facts	

Exhibit E7

7. Property Facts	
Property Occupancy *	Occupied By Owner
Refunding Indicator	No
Broker	
Name	
Phone Number	
Keys Location	
Address	
Phone Number	
Building Information	
Number of Buildings	
Number of Living Units *	1 Family Unit
Street Access	Public
Street Maintenance	Public
Sales Date	
	(mm/dd/yyyy)

Exhibit E8

Certification For Submissions To VA

On receipt of "Notice of Value" of advice from the Department of Veterans Affairs that a "Notice of Value" will not be issued, we agree to forward to the appraiser the approved fee which we are holding for this purpose.

WARNING: Warning: Section 1010 of Title 18, U.S.C. provides: "Whoever for the purpose of ...influencing such Administration ...makes passes, utters or publishes any statement knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years or both.

[Español](#) | [VA Forms](#) | [Facilities Locator](#) | [Contact the VA](#) | [Frequently Asked Questions \(FAQs\)](#)
[Privacy Policy](#) | [Web Policies & Important Links](#) | [Annual Performance and Accountability Report](#)

Exhibit F

• Homeowner's Name|

• Phone # (if applicable, if a phone # is not available, state "Phone # for the homeowners is not available")

• If additional information is required by the appraiser, the VA appraiser should email or call the contact information in box 29 on the 1805

• If the subject property is occupied and 3 attempts to gain interior access can be documented, an exterior inspection can be completed. If you feel the property is vacant (with the exception of Florida) an interior inspection must be completed unless written permission from your Regional Loan Center has been obtained. Should you require interior access, please refer to box 29 in the 1805 for all contact information

• Once the report is completed, upload your report into the WEBLGY VA system. Include a copy of your invoice with your report (per VA guidelines). Once your report has been reviewed and the NOV has been issued, a copy of your invoice will be sent to the proper department for processing. Please allow 20 business days to receive a check. At this time, there is no need to email a copy of your invoice to Wells Fargo

• Should you require guidance in completing your report, Please contact your Regional Loan Center

Exhibit G**Fax**

New VA Appraisal

To: VA Appraiser
office name

From: Attorney's

Fax: VA Appraiser's fax #
fax #

Fax: Attorney's

Phone #: VA appraiser's phone #
Attorney's main office #

Phone #:

Subject: New VA SAP Liquidation Appraisal VA case # xx-xx-x-xxxxxxx

Date:

- Homeowner's Name
- Phone # (if applicable, if a phone # is not available, state "Phone # for the homeowners is not available)
- If additional information is required by the appraiser, the VA appraiser should email or call the contact information in box 29 on the 1805
- If the subject property is occupied and 3 attempts to gain interior access can be documented, an exterior inspection can be completed. If you feel the property is vacant (with the exception of Florida) an interior inspection must be completed unless written permission from your Regional Loan Center has been obtained. Should you require interior access, please refer to box 29 in the 1805 for all contact information
- Once the report is completed, upload your report into the WEBLGY VA system. Include a copy of your invoice with your report (per VA guidelines). Once your report has been reviewed and the NOV has been issued, a copy of your invoice will be sent to the proper department for processing. Please allow 20 business days to receive a check. At this time, there is no need to email a copy of your invoice to Wells Fargo

Should you require additional assistance in completing your appraisal report, please contact your Regional Loan Center

Appendix Q – Lien Release Requests/ Subordinations

Lien Release Requests

- Wells Fargo Home Mortgage and Wachovia Mortgage release requests should be submitted via fax to 866-278-1179. A phone number to contact for follow up is 800-572-3358. Standard processing timeframes are approximately 20 business days.
- Wells Fargo Home Equity line release requests should be faxed to 866-359-9195 Attn: Billings Paid Loan Research. A phone number for follow up is 866-255-9102
- Wells Fargo Financial lien release requests should be faxed to 877-536-5411. Follow up phone number is 800-346-3009.
- Wachovia Commercial Loan lien release requests should be faxed to 704-427-6383, Attn: Commercial Paid Loan Processing
- Wachovia Home Equity line release requests should be requested from their lien release research department. There is not an available fax number to submit, however, below is the address and phone number to contact them:

Wachovia Bank
 Lien Release Research
 7711 Plantation Rd
 MAC Code R4058-030
 Roanoke, VA 24019
 Phone: 800-669-8887

- Wachovia Construction Loan lien release requests for the state of FL should be submitted via fax to 866-890-1334. Follow up phone number is 866-890-1333.
- Wachovia Construction Loan lien release requests for the state of VA should be requested from their lien release research department. There is not an available fax number to submit, however, below is the address and phone number to contact them:

Wachovia Bank
 Lien Release Research
 7711 Plantation Rd
 MAC Code R4058-030
 Roanoke, VA 24019
 Phone: 800-669-8887

Subordination/Position Change Requests

- Upon receipt of the title search,, if you identify an outstanding WF/Wachovia lien that has a balance and needs to be subordinated, please proceed with the following:

- a. Complete the Wells to Wells subordination checklist (Please see Page 3 of Appendix R)
- b. Please ensure the title search that will be attached is current (within 6 months)
- c. The following documents need to be attached with the checklist: HUD-1 from origination of the loan that should be in first position, the recorded mortgage or DOT for the WFHM lien, and the above mentioned title search.
- d. The Subordination/Positions Changes group will prepare/execute the subordination agreement. Sending a subordination agreement already prepared will not expedite the process.
- e. The \$100 fee is not applicable on Wells to Wells subordinations
- f. Ensure that you complete the shipping account information so the completed checklist can be sent to your attention for recording.
- g. The 1st Lien information at the bottom, should include the loan information for the lien that should be in first position. A detailed explanation needs to be included as well.

Wells Fargo Position Change Request Checklist



Please thoroughly complete all sections and attach the requested forms. The following items **must** be included in your Request:

- **Completed Position Change Checklist:**
 - Include an explanation as to why a position change is needed.
 - FEDEX or UPS Account Number is **required** for shipping.
- **PRELIMINARY TITLE REPORT.** Must show vesting, legal description, eff. date & our recorded lien(s).
- **Recorded copies of the Deed of Trust or Mortgage:** if available for both loans showing recording information, vesting, property address, loan amounts, deed dates and Trustee and Beneficiary.
- Any additional documents supporting the original refinance transaction (if available):
 - **Completed FNMA Form 1003** - UNIFORM RESIDENTIAL LOAN APPLICATION.
 - **Completed FNMA Form 1008** - UNDERWRITING TRANSMITTAL FORM.
 - **Completed FNMA Form 1004/1073** - UNIFORM RESIDENTIAL APPRAISAL REPORT.
 - **Income documentation** – W2 / Paystubs / Award Letters / Self Employed borrowers will typically require 2 years personal and business tax returns including all schedules.

Although not initially requested, the underwriter may require additional items. Incomplete requests submissions may cause processing delays and may be declined. **Please DO NOT mail or Fed Ex packages.** Fax all documents to the Specialty Underwriting Department at (866) 238-6875. Please call (866) 232-5697 for status updates.

Wells Fargo Home Equity Account Information

WF HE Account # _____ Borrower 1 _____ WF Emp? ☐
 Pending Foreclosure ☐ Yes ☐ No Borrower 2 _____ WF Emp? ☐
 Request Part of 2MP ☐ Yes ☐ No

Requestor Information

Please indicate who to contact for additional information and approval notification.

Department _____

Name _____

Street _____

City _____ St _____ Zip _____

Email _____

Phone _____ Ext _____

Cell _____ Fax _____

AU (required) _____

Shipping Account Number (required): _____ Billing Zip Code _____

☐ FEDEX ☐ UPS ☐ Prepaid Shipping Label Included

Recipient

Please indicate where to send the completed Position Change agreement.

Same as Requestor ☐ Yes ☐ No

Company _____

Name _____

Street _____

City _____ St _____ Zip _____

Email _____

Phone _____ Ext _____

Cell _____ Fax _____

1st Lien Information

Amount _____ Date Recorded _____ Account Number _____

1st Mortgage Lender, as it should appear on the agreement.

Please provide a detailed description of your request.

New First Mortgage Modification is part of HAMP? (Homeowners Affordability Modification Program)		Yes ☐ No ☐
Rate Lock Expiration Date		Refi Fees > 6% of Original Mortgage Amount? Yes ☐ No ☐
Rate / Term Refinance?	Yes ☐ No ☐	If Cash Out, Purpose

Section 5 – New Loan Terms – Benefit to Borrower		
A clear statement indicating how borrower is improving their financial position (i.e., getting out of Neg AM/Option ARM, moving to fixed rate, reducing mortgage payment, terms, rate of old 1 st Mortgage, etc.) is required.		
Benefit to Borrower		
Provide existing and new information for the following:	EXISTING	NEW
First Mortgage P&I Payment Amt:		
Rate:		
Product Type (i.e. fixed, 3 yr arm, neg am, 5 yr balloon etc):		
Terms:		

Section 6 – Closing Agent Information			
Approved Subordination Agreements can be sent directly to the Closing Agent via courier. Please provide the following information:			
Company Name			
Escrow/File Number		Telephone Number	
Closing Agent Name		Fax Number	
Street Address (City, State, Zip)			
Email Address			

Section 7 – Shipping Information	
Please provide your FEDEX or UPS shipping account number:	
FEDEX: _____	UPS: _____
NOTE: If shipping information is not provided, your documents will be sent via standard US mail.	

Thank you for your assistance in making the Subordination Process as efficient and timely as possible. Please allow a minimum of 25 Business days for processing of a Subordination Agreement. For Subordination status or any changes to your submitted request, please contact Home Equity Group Customer Service at (866) 232-5697.

Appendix R – Escalated Foreclosure Contacts

Areas Handled	Contact	Supervisor
Losses and Investor Audits	Losses-Amanda Fazio Email: Amanda.S.Fazio@wellsfargo.com Phone: (803) 370-6025 Audits-Sonya Taylor Email: Swething@wellsfargo.com Phone: (803) 396-6433	Yolanda Williams Email: Yolanda.Williams@wellsfargo.com Phone: (803) 396-6890
Rescissions, 55F, Reinstatements, Personal Checks, and Data 19	Rescissions-Samone Williams Email: Samone.Williams@wellsfargo.com Phone: (803) 396-6834 All Other Areas-Sonya Johnson Email: Sonya.Johnson@wellsfargo.com Phone: (803) 396-7565	Stacey Gallagher Email: Stacey.Gallagher@wellsfargo.com Phone: (803) 396-4258
Audits and Attorney Audits		Ashleigh Jackson Email: Ashleigh.J.Jackson@wellsfargo.com Phone: (803) 370-4049
Equity Analysis and Charge Offs	Steven Patrick Email: Steven.M.Patrick@wellsfargo.com Phone: (803) 396-6233	Kevin Marks Email: Kevin.Marks@wellsfargo.com Phone: (803) 396-7431
Wells Fargo Financial (WFF)		Ashleigh Jackson Email: Ashleigh.J.Jackson@wellsfargo.com Phone: (803) 370-4049
Wells Fargo Home Equity (WFHE)	Nathan Remington Email: Nathan.Remington@wellsfargo.com Phone: (952) 562-1834 Tim Engle Email: Tim.Engle@wellsfargo.com Phone: (952) 562-1829	Liquenda Allotey Email: Liquenda.Allotey@wellsfargo.com Phone: (952) 562-1802
Escalated HAMP Certification/Status	HAMPPresale@wellsfargo.com	Matthew Depolo Email: Matthew.Depolo@wellsfargo.com Phone: (803) 835-9219
Pre-Judgment Affidavits	Judgment.Affidavit@wellsfargo.com	Debbie Franklin Email: Debbie.Franklin@wellsfargo.com Phone: (704) 374-6080
Post Judgment Affidavits	Doc.Execution@wellsfargo.com	Judy Thompson Email: Judith.Thompson@wellsfargo.com Phone: (714) 571-2364
PA Reassessment Affidavits	FCDocumentExecutionEscalation@wellsfargo.com (include PA Reassessment Affidavit in the subject line of the email)	
Non-Figure Affidavits and Misc. Affidavits	Affidavitsdoc@wellsfargo.com	Amy Cahall Email: Amy.C.Cahall@wellsfargo.com Phone: (803) 396-6674

Escalated Foreclosure Contacts (Continued)		
Deeds	Deeddoc@wellsfargo.com	Amy Cahall Email: Amy.C.Cahall@wellsfargo.com Phone: (803) 396-6674
Assignments	FDAssignmentDesk@wellsfargo.com	Molly Bejblik Email: Molly.M.Bejblik@wellsfargo.com Phone: (651) 605-7612 Sarah Pierce Email: Sarah.A.Pierce@wellsfargo.com Phone: (651) 605-3717 Thresa A. Russell Email: Thresa.A.Russell@wellsfargo.com
Substitution of Trustee (SOT)	SOTdoc@wellsfargo.com	Antonio Melendez Email: Antonio.Melendez@wellsfargo.com Phone: (714) 571-2340
Complaint Verifications (Pennsylvania)	Doc.Execution@wellsfargo.com	Roxanne Hulbert Email: Roxanne.Hulbert@wellsfargo.com Phone: (714) 571-2343 Lydia Vidriales Email: Lydia.Vidriales@wellsfargo.com Phone: (714) 571-2356 Antonio Melendez Email: Antonio.Melendez@wellsfargo.com Phone: (714) 571-2340
Complaint Verifications (Florida Firms)	FLDeclaration@wellsfargo.com	Marc Kline Email: Marc.Kline@wellsfargo.com Phone: (240) 586-8251
Complaint Verifications (All other states)	FCDocumentExecutionEscalation@wellsfargo.com	Katherine Magabo Email: Katherine.Magabo@wellsfargo.com Phone: (704) 383-0533 Kimberly Anderson Email: Kimberly.Anderson@wellsfargo.com Phone: Not Available

Appendix S – Blanket Fee Approval Matrix

I-clear line item	Service	FHLMC & FNMA Investor	Non FHLMC & FNMA Investor	Recoverability
11118	Shorten Redemption Over 45 days only	Approval required from FHLMC/ FNMA	\$0 to \$150	Recoverable
n/a	Obtain Documents Needed For Legal Action Not In Clients Possession	No Charge	No Charge	N/A
12247 recording fee	Draft Assignment Fee Assignment Recording Costs	No Charge Actual out of pocket costs w/supporting documentation	No Charge	Non Recoverable
11181	Lost Note Affidavits	\$0 to \$50.00	\$0 to \$50	Non Recoverable
19121	Title Issues Including Recording Costs	\$0 to \$150.00	\$0 to \$150	Non Recoverable
11117	Contested Foreclosures / MSJ Note if allegations are due to improper attorney actions, there will be no approval for charges to Wells Fargo.	Approval required from FHLMC/FNMA	\$0 to \$750	Recoverable
11184	Amend Judgment - For servicer advances of \$2K or less do not amend judgment. - For servicer advances greater than \$2K, prior approval is required.	Approval required from FHLMC/FNMA	Approval required from servicer	Recoverable
11182	Amend Complaint note if amendment is due to improper attorney actions, there will be no approval for charges to Wells Fargo	Approval required from FHLMC/FNMA	\$100	Recoverable
19328	Cure Mobile Home Issues	Refer to Direct Source Manual	Refer to Direct Source Manual	Non Recoverable
19163	Probate Matters	Approval required from FHLMC/FNMA	\$0 to \$1750	Recoverable

11116	Reset Sale	Approval required from FHLMC/FNMA	\$0 to \$250	Recoverable
11120	Postponements	Approval required from FHLMC/FNMA	\$0 to \$150	Recoverable
11183	Home Owner Association Affirmative Action (Florida Only)	Approval required from FHLMC/FNMA	\$0 to \$350 (Florida only)	Recoverable
19332	Mediation	Approval required from FHLMC/FNMA	\$0 to \$550	Recoverable

Appendix T – Collateral File Ordering Procedure

Collateral File Ordering Procedure

The purpose of the **Collateral File Ordering Procedure** is to provide a unified format that will eliminate unnecessary mistakes and enable us to get required information to consistently fulfill collateral file requests accurately and efficiently from the request form.

References

The Collateral File Request Form must be used to request collateral files. The Form and Procedures can be found on the auto reply of the DocOrderingHMEC mailbox.

NUMBER	DESCRIPTION
1	Collateral File Request Form

Document Ordering Process Steps

If files need to be sent to multiple attorneys, a new spreadsheet needs to be requested for each mailing address. However, if several documents need to be ordered for the same attorney, complete one spreadsheet.

To ensure the accuracy of information and timeliness in ordering documents, please use the following steps:

STEP	ACTION																				
1	Open the Collateral File Request Form from the team mailbox																				
2	Complete the Requestor Information fields																				
	<table border="1"> <thead> <tr> <th colspan="2">Requestor Information</th></tr> </thead> <tbody> <tr> <td>Name:</td><td></td></tr> <tr> <td>Phone No:</td><td></td></tr> <tr> <td>Select Department:</td><td></td></tr> <tr> <td>If originals are required</td><td> Bankruptcy Foreclosure Litigation Nevada Mediation Other </td></tr> <tr> <td>ATTN:</td><td></td></tr> <tr> <td>STREET:</td><td></td></tr> <tr> <td>CITY:</td><td></td></tr> <tr> <td>STATE:</td><td></td></tr> <tr> <td>ZIP:</td><td></td></tr> </tbody> </table>	Requestor Information		Name:		Phone No:		Select Department:		If originals are required	Bankruptcy Foreclosure Litigation Nevada Mediation Other	ATTN:		STREET:		CITY:		STATE:		ZIP:	
Requestor Information																					
Name:																					
Phone No:																					
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If originals are required	Bankruptcy Foreclosure Litigation Nevada Mediation Other																				
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CITY:																					
STATE:																					
ZIP:																					
3	Complete the Loan Information fields																				
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LOAN INFO																					
Client #	Loan #																				
4	Complete the Items Requested fields																				

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Loan #		Collateral Package	Note	Mtg																																
ORIGINAL IMAGE																																				
5	The section below is for INTERNAL USE ONLY. It will auto populate. Complete the form thoroughly and the columns below will automatically populate as information is entered in the Items Requested section.																																			
	<table border="1"> <tr> <th colspan="4">ORDER STEPS</th></tr> <tr> <th>REVIEW: ORDER</th><th>COL PKG: REQ IMG</th><th>DOC TYPE: NOT IN COL FILE</th><th>CLARIFICATION TEXT</th></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> <tr><td></td><td></td><td></td><td></td></tr> </table>			ORDER STEPS				REVIEW: ORDER	COL PKG: REQ IMG	DOC TYPE: NOT IN COL FILE	CLARIFICATION TEXT																									
ORDER STEPS																																				
REVIEW: ORDER	COL PKG: REQ IMG	DOC TYPE: NOT IN COL FILE	CLARIFICATION TEXT																																	
6	Important! DO NOT modify or change the format of this document.																																			
7	Once completed, forward the request form to DocOrderingHMEC@wellsfargo.com .																																			

Revision Control History

Date of Revision	Description of Change
02/03/2012	Establish how to access DTS; Revised Appendix T, "Collateral File Ordering Procedure"; Update instructions to return recorded AOMs; Corrected one e-mail address with error.
01/17/2012	Placed in new template which resulted in some sections now appearing at beginning of document and eliminating some sections.
01/17/2012	Updates made per Change Control#554: Appendix S was updated BLANKET FEE APPROVAL MATRIX, Change Control #1954: T66 step implementation and Change Control #1955:– Foreclosure document execution.