Open Adversary Case

U.S. Bankruptcy Court

Central District Of California

Notice of Electronic Filing

The following transaction was received from Robert P Goe entered on 4/26/2012 at 4:32 PM PDT and filed on 4/26/2012

Case Name:	Kalush v. Deutsche Bank National Trust Company as Trustee of
Case Number:	8:12-ap-01206-ES
Document Number:	1
Case Name:	Trudy Kalush
Case Number:	8:11-bk-19563-ES
Document Number:	176

Docket Text:
Adversary case 8:12-ap-01206. Complaint by Trudy Kalush against Deutsche Bank National Trust Company as Trustee of the INDYMAC INDX Deed of Trust Loan Trust 2005-AR12, Deed of Trust Pass-Through Certificates, Series 2005-AR12, under the Pooling and Servicing. (Charge To Estate). (Attachments: # (1) Summons and Notice of Status Conference# (2) Adversary Cover Sheet) Nature of Suit: (21 (Validity, priority or extent of lien or other interest in property)) (Goe, Robert)

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:\\gfpdc01\Data\X\Scanned Documents\Complaint 04-26-12.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=1106918562 [Date=4/26/2012] [FileNumber=55414413-0] [356c576975a90bef874bec13431ad4edc5c7e24ce0521cc0f41e0d75b6084ee3cd671133f7a5786e0afe50e0ed1d60811fcf953bd7da824effacf955a28e0d86]]
Document description: Summons and Notice of Status Conference
Original filename: Summons and Notice of Status Conference.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=1106918562 [Date=4/26/2012] [FileNumber=55414413-1] [aac2edb8ee580f201d262be400f98512d8c7201cf7c55db50730b0bf858fab09d005e4ff2bcbc4cc67c3bf4baccc0337d0f81f5a635f6b5dc27fd17b9cc07255]]
Document description: Adversary Cover Sheet
Original filename: Adversary Cover Sheet.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=1106918562 [Date=4/26/2012] [FileNumber=55414413-2] [4f2cc940b5692ce52768773b13b2283f648577a36e27017cd98e0395ea839addbc74cc454b53e20297f21515cc30cd429ad9c5c3abe9c760fcb2517a9912f952]]
Document description: Main Document
Original filename:\\gfpdc01\Data\X\Scanned Documents\Complaint 04-26-12.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=1106918562 [Date=4/26/2012] [FileNumber=55414414-0] [0a575bee7abde0942564c77ac11bd089b54034924b455f95e639f8fb5d0efb4a96602de352b8bf3420042762de485be7117315b4e315b65df59a18031b6577f8]]

Document description: Summons and Notice of Status Conference
Original filename: Summons and Notice of Status Conference.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=1106918562 [Date=4/26/2012] [FileNumber=55414414-1] [bbb90deb944d6915a52ebf92322d90ecf8fd3c7e4d5e31f546e83c835644959a33313476eb7e40f30a348d91b2e6991c9e8cfad6aa83c31b150f9f4f6c34a9fb]]
Document description: Adversary Cover Sheet
Original filename: Adversary Cover Sheet.pdf
Electronic document Stamp:
[STAMP bkecfStamp_ID=1106918562 [Date=4/26/2012] [FileNumber=55414414-2] [7e09a1e5d0a93f50e322150c5042185c3e84ff41cf36b1ff57a7d7be67280ac7506f13ab0b6cf9c4ff8ba207b3956de712336e7f2a479a6c12d55f924a18c045]]

8:12-ap-01206-ES Notice will be electronically mailed to:

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8:12-ap-01206-ES Notice will not be electronically mailed to:

Deutsche Bank National Trust Company as Trustee of the INDYMAC INDX Deed of Trust Loan Trust 2005-AR12, Deed of Trust Pass-Through Certificates, Series 2005-AR12, under the Pooling and Servicing
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8:11-bk-19563-ES Notice will be electronically mailed to:

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8:11-bk-19563-ES Notice will not be electronically mailed to:

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA

In re: TRUDY KALUSH, Debtor,	**Chapter 11** **Case No. 8:11-bk-19563-ES** **Adv. No.: 8:12-ap-**
TRUDY KALUSH, an Individual. Plaintiff, -vs.- DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE OF THE INDYMAC INDX DEED OF TRUST LOAN TRUST 2005-AR12, DEED OF TRUST PASS-THROUGH CERTIFICATES, SERIES 2005-AR12, UNDER THE POOLING AND SERVICING AGREEMENT DATED JUNE 1, 2005; ONEWEST BANK, FSB; and DOES 1-100, Inclusive; Defendants.	**ADVERSARY COMPLAINT** **(OBJECTION TO CLAIM #6)** **1. DETERMINE THE NATURE, EXTENT AND VALIDITY OF LIEN/DECLARATORY RELIEF FRBP 7001, 28 U.S.C. § 2201** **2. CANCELLATION OF DEED OF TRUST INSTRUMENTS [PENAL CODE 470]** **3. SLANDER OF TITLE** **4. QUASI CONTRACT** **5. TILA - 15 U.S.C. §1641 (g)** **6. QUIET TILE** **7. UNFAIR BUSINESS PRACTICES**

COMES NOW debtor and plaintiff TRUDY KALUSH herein, (“Plaintiff”), and respectfully alleges the following:

1. This adversary proceeding is brought pursuant to 11 U.S.C. § 506 and Federal Rule of Bankruptcy Procedure 7001.

2. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§151, 157 and 1334(b).

3. Venue is proper pursuant to 28 U.S.C. §1409.

4. This adversary proceeding is a core proceeding as defined at 28 U.S.C. §157(b)(2)(b) and (b)(2)(K) in that it is an action to determine the nature, extent and validity of a lien on property evidenced by a Deed of Trust, and the allowance or disallowance of a claim. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and jurisdiction exists pursuant to 11 U.S.C. § 502 (a) and (b) (1), 11 U.S.C. § 544 (a) (3) and (b) (1), 28 U.S.C. §1334, 28 U.S.C. § 2201 for declaratory relief and 28 U.S.C. §1367 for pendent state claims.

PARTIES

5. Plaintiff is an individual, and debtor within the captioned bankruptcy case, having filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, and at all times mentioned herein is the owner and purchaser of real property located at 16625 South Pacific Coast Highway, Sunset Beach, California 90742 ("Property”). As:

> LOT 1, BLOCK 20, OF SUNSET BEACH, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 3, PAGES 39 AMD 40 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

6. Plaintiff as the Debtor in Possession has standing to bring this action pursuant to 11 U.S.C. § 323.

7. Defendant Deutsche Bank National Trust Company is a California Corporation located at 1761 East Saint Andrew Place Santa Ana, California 92705-4934. Defendant Deutsche Bank National Trust Company is doing business as a Trustee [and not a National Bank] for the IndyMac INDX Deed of Trust Loan Trust 2005-AR12, Deed of Trust Pass-Through Series 2005-AR12 ("INDX 2005-AR12"), under the Pooling and Servicing Agreement dated June 1, 2005 ("PSA"). The true entity is "Deutsche Bank AG", a Corporation [originally chartered under the laws of Bundesrepublik Deutschland, now Reunified Germany]; the principal

place of business is Frankfort, Germany with its U. S. operations at 60 Wall Street, New York, New York 10005. "Deutsche Bank AG" in turns owns "Tannus Corporation", which in turn owns "Deutsche Bank Trust Corporation", which in turns owns "Deutsche Bank Holdings, Inc.", which in turn owns "Deutsche Bank National Trust Company" ("Deutsche Bank") the Defendant herein.

8. Commercial Capital Bankcorp, Inc. was a Bank Holding Company with complete filings with the Securities and Exchange Commission ("SEC") and traded on the national market as NASDAQ:CCBI. This holding company owned and operated Commercial Capital Bank, FSB (collectively referred to as "Commercial") which was a Federal Savings Bank located at 8105 Irvine Center Drive, 15th Floor, Irvine, California 92618. "Commercial" was the purported originator for the loan on Property on January 20, 2005. On April 23, 2006 Washington Mutual Bank acquired Commercial Capital Bankcorp, Inc.

9. Washington Mutual Bank operated its business thereafter as Washington Mutual Inc. and traded on the New York Stock Exchange as WM. On September 25, 2008 Washington Mutual was sold to J P Morgan Chase, N.A. ("Chase") in a transaction facilitated by the Office of Thrift Supervision [now part of the Office of the Comptroller of the Currency] and the Federal Deposit Insurance Corporation ("FDIC") was named receiver. The details of ownership and transfers are still being determined in Courts.

10. IndyMac Bank, F.S.B., ("IndyMac") Pasadena, CA was closed on July 11, 2008, by the Office of Thrift Supervision ("OTS"). All non-brokered insured deposit accounts and substantially all of the assets of IndyMac Bank, F.S.B. were transferred to IndyMac Federal Bank, F.S.B. (hereinafter referred to as "IndyMac Federal Bank" or "IndyMac FDIC"), Pasadena, CA [assuming institution] a newly chartered full-service FDIC-insured institution.

11. IndyMac's assets were overseen by Federal Deposit Insurance Corporation (''FDIC''), whose statutory duty is to resolve the institution in the method that is least costly to the deposit insurance fund (see 12 U.S.C. 1823(c)(4)), the FDIC effected a pass-through receivership. Accordingly, the FDIC organized IndyMac Federal Bank, a new federal savings bank for which the FDIC was appointed as conservator ("FDIC-C"). [1]

12. IndyMac assets were transferred to IndyMac Federal Bank under an agreement

[1] The Transfers went to the FDIC-R ("Receiver") to FDIC-C ("Conservator") to FDIC-R for sale to Onewest.

whereby the amount (if any) realized from the final resolution of IndyMac FDIC after payment in full of IndyMac Federal's obligations was to be paid to the IndyMac's receivership.

13. On March 19, 2009, IndyMac FDIC was placed back in receivership ("FDIC-R") and substantially all of its assets were sold. The amount realized from the resolution of IndyMac FDIC was insufficient to pay all of its liabilities, and therefore there was no amount paid to the IndyMac receivership. Section 11(d)(11)(A) of the FDI Act, 12 U.S.C. 1821(d)(11)(A), sets forth the order of priority for distribution of amounts realized from the liquidation or other resolution of an insured depository institution to pay claims.

14. On March 19, 2009, the FDIC-R completed the sale of IndyMac FDIC to OneWest Bank, F.S.B., Pasadena, California ("OneWest"). OneWest is a newly formed federal savings bank organized by IMB HoldCo LLC. All deposits of IndyMac were transferred to OneWest.

15 Multiple public agreements define what was sold by Indymac FDIC-R and to who it was sold <u>and under what standards the assignments must occur</u>. The flow through asset from IndyMac FDIC to the newly formed OneWest include:

Agreements

- Purchase and Assumption Agreement
- Master Purchase Agreement by and among FDIC as Conservator for IndyMac Federal Bank, FSB and IMB HoldCo LLC, and OneWest Bank Group LLC
- Loan Sale Agreement Between the FDIC as Receiver for IndyMac Federal Bank, FSB and OneWest Bank, FSB (10% of total all servicing rights did the Indymac FDIC also own the Note.) These Note assets are covered by loss share agreement.
- Shared Loss Agreement Between the FDIC as Receiver for IndyMac Federal Bank, FSB and OneWest Bank, FSB
- Servicing Business Asset Purchase Agreement by and between the FDIC as Receiver for IndyMac Federal Bank, FSB and OneWest Bank, FSB . [2]

16. Defendant OneWest is a National Bank now under the oversight of the Office of the Comptroller of the Currency ("OCC") and located in the same offices in Pasadena,

[2] The Freedom of Information Act ("FOIA") Request Kalush obtained from the FDIC states that only the Servicing rights were sold and not the Note.

California. Indy Deed of Trust Services is a Division of Onewest and is responsible for the servicing of loans owned by OneWest. The rights that flowed through the FDIC sale and were sold to OneWest are the 90% servicing rights only. The loans serviced were primarily from the 1999-2008 Vintage IndyMac Bank FSB Deed of Trust Backed Securities ("MBS") So the vast majority of the loans under IndyMac Deed of Trust Services are not owned by OneWest.

17. IndyMac MBS, Inc. is a Delaware Corporation that served as the Depositor (“Depositor”) for IndyMac INDX Deed of Trust Loan Trust 2005-AR 12. The Depositor is the owner of the Trust Fund Notes by "true sales' [IndyMac INDX Deed of Trust Loan Trust 2005-AR 12 alleged in the case at bar] that conveyed to the Defendant Deutsche Bank in return for the MBS Certificates. True sales were required by formation documents.

18. IndyMac Bank FSB originated Deed of Trust loans, serviced Deed of Trust loans, and participated in the formation of billions of dollars worth of Deed of Trust Backed Security Trusts ("MBS"). The formation documents were filed with the SEC and are publically disclosed. IndyMac Bank FSB would also purchase loans from originators or pools of Deed of Trusts owned by other banks. IndyMac Bank FSB would serve as a seller of their loans or others loans into the 250 Trusts formed by IndyMac Bank FSB or one of its entitles. The sale of these loans into the trust [to the Depositor] would create a true sale.

19. INDX 2005-AR12 is a MBS Trust formed using New York Trust Laws and a Pooling and Servicing Agreement ("PSA") filed with the SEC. All formation documents are obtainable from the SEC. This trust requires true sales with negotiation, and as required by the SEC governing documents. The following true sales would be required.

20. The Defendants herein named as "all persons claiming by, through, or under such person, all persons unknown, claiming any legal or equitable right, title, estate, lien, or interest in the property described in the complaint adverse to Plaintiff's title thereto" ("Unknown Defendants") are unknown to Plaintiff. These Unknown Defendants, and each of them, claim some right, title, estate, lien, or interest in the Property adverse to Plaintiff's title; and their claims, and each of them, constitute a cloud on Plaintiff's title to the Property.

<u>THE SUBJECT PROPERTY ORIGINAL DOCUMENTS</u>

21. On or about January 21, 2005, Plaintiff signed a document styled as an Interest Adjustable Rate Note on the Property in the amount of $ 1,725,500.00 ("Note").

22. Plaintiff also signed a document styled as a Deed of Trust ("DOT") which purports to secure the note recorded as Orange County Instrument No. 2005000068194. There is no use or mention in the DOT of Deed of Trust Electronic Registration Systems, Inc. ("MERS").

23. On April 5, 2011, a document titled "Assignment of Deed of Trust" along with the Note, was recorded as Orange County Instrument No. 2011000171094. Such document purports to assign from Commercial, the "Beneficiary" of the January 20, 2005 Note to INDX 2005 AR12. (**Exhibit A**) *"This assignment is made without recourse, representation or warranty, expressed or implied, by the FDIC in any capacity, an is signed."*

"Federal Deposit Insurance Corporation as receiver for IndyMac Federal Bank, FSB successor in interest to IndyMac Bank, FSB.

BY : Signed Roger Stotts

Roger Stotts Attorney in Fact"

24. However, as discussed herein **Exhibit B**, the Limited Power of Attorney for Mr. Stotts to sign had expired nearly a year earlier on June 19, 2010.

25. No other documents have been recorded on the Property. Debtor was not notified that Deutsche Bank was the new creditor as outlined by 15 U.S.C. § 1641(g).

26. The Plaintiff used the Freedom Of Information Act ("FOIA") to request that the FDIC detail any information they may have on the Property. The FOIA stated that OneWest only purchased servicing rights to Plaintiff's DOT.

THE INDYMAC DEED OF TRUST LOAN TRUST 2005-AR SECURITIZATION.

27. During the Mortgage Boom Era of 2002 to 2007, Wall Street investors looked to feed their insatiable and reckless greed for profit by tapping directly into the American Dream-homeownership. Wall Street took the soon to be toxic loans and bundled them into "Deed of

Trust Backed Securities" ("MBS") through a process known as "Securitization". These securities were then sold to investors in the form of certificates, whereby the investors became the "Certificate-holders" of the securities.

28. Knowing that the predatory loans would soon default and turn into toxic assets, Wall Street placed their bets accordingly and bought exotic insurance products in the form of Credit Default Swaps ("CDS"). Thus, when the mortgage boom turned into a mortgage meltdown (which it did), they would stand to make even more profit when the Deed of Trust insurance paid them out for their "losses".

29. However, in their rush to "securitize" the loans, Wall Street failed to actually follow its own rules and regulations, creating the instant situation where the security is not actually backed by any Deed of Trusts at all. Under the standard model, the promissory notes were *supposed* to be sold and transferred into a MBS trust pool that holds the promissory notes as collateral on the securities bought by investors ("Certificate-holders"). These "true sales" allow the original lenders to move the notes off their books, eliminating the need to maintain capital adequacy reserves against default. The purpose of securitizing collateral debt obligations was to provide a large supply of money to lenders for originating loans, and to provide investments to bond holders- which were expected to be relatively safe.

30. The Securitized Trusts, if ever formed properly, are subject to and governed by (1) the Pooling and Servicing Agreement ("PSA");(2) the Deed of Trust and Loan Purchase Agreement; (3) the 425B5 Prospectus; (4) the common law trust rules of Delaware or New York, depending on its origin, and (5) Internal Revenue Code Section 860A through 860G, better known as the Real Estate Deed of Trust Investment Conduit ("REMIC") rules.

31. An essential aspect of the deed of trust securitization process is that the trust must obtain good title to the deed of trust loans comprising the pool for that certificate offering. This is necessary in order for the trustee of the purportedly securitized trust to be legally entitled to enforce the deed of trust loans in case of default. In addition to other required documentation to

complete the collateral file of any given loan, two documents relating to each deed of trust loan must be validly transferred to the trust as part of the securitization process-the promissory note and the security instrument/deed of trust. In this case, neither document was validly transferred.

32. Here, Plaintiff alleges that the "true sales" never took place due to the failure to follow the basic legal requirements for the transfer of a negotiable instrument and thereby, the legal, equitable, and pecuniary interest in Plaintiff's' Note and DOT. As a result thereof, Defendant Deutsche Bank, which purports to be Plaintiff's creditor, actually has no right, title, or interest in Plaintiff's Note and DOT, and has no right to collect DOT payments, demand DOT payments, report derogatorily against Plaintiff's credit, or foreclose on the Property.

33. Plaintiff further alleges that, the trust that purportedly owns Plaintiff's Note and DOT has been dismantled due to the disbursement and receipt of deed of trust insurance payouts to Defendant Deutsche Bank and the Certificate-holders (including, but not limited to, credit default swaps and other Deed of Trust insurance products). As a result of these Deed of Trust insurance payouts, Defendant Deutsche Bank has been paid in full on Plaintiff's debt obligation.

34. Nonetheless, Deutsche Bank attempts to take advantage of the complex structured finance system to take advantage of yet another homeowner who has sought for over a year to come to a financial arrangement with their true creditor and avoid the possibility of double financial jeopardy. Having already benefitted from an American taxpayer bailout of unprecedented proportions, Deutsche Bank with the help of other Defendants will seek a court sanction bailout by submitting a blatantly fabricated "Assignment", thereby misleading the Plaintiff' and Court into believing that Deutsche Bank was their actual creditor.

35. At or around the time of origination of the DOT, Commercial attempted to sell her loan to another entity or entities. That entity was not Deutsche Bank.

36. Commercial never sold Plaintiff’s DOT to Deutsche Bank, and that Deutsche Bank is merely a third-party stranger to the loan transaction. Furthermore, Plaintiff alleges that

none of the Defendants can demonstrate or document that Plaintiff's' Note was ever properly endorsed, and timely delivered to Defendant Deutsche Bank.

37. Plaintiff has requested that IndyMac Deed of Trust Services, a Division of OneWest Bank ("OneWest Servicing") (in its capacity as the current purported DOT servicer agent and proper agent of Deutsche Bank) provide evidence establishing the true and correct owner of her loan. Although this information should be readily available to any Deed of Trust servicer, OneWest has failed to provide any evidence verifying the beneficiary of the Deed of Trust. To date no production has occurred.

38. It is alleged and believed that the parties involved in the purported securitization and transfer of the Note and DOT failed to strictly adhere to section 2.01 of the PSA, which requires that Plaintiff's' Note and Deed of Trust be properly endorsed, transferred, accepted, and deposited with the Securitization Trust (INDX 2005-AR12 ")(or its custodian) on or before the <u>July 11, 2005 closing date indicated on the PSA</u>. The "closing date" is the date by which all of the notes and deeds of trust, including all assignments, must be transferred into the Trust. The failure to do so results in the Note and DOT not being part of the INDX 2006-AR12 Trust.

39. The failure to deposit the Note into the INDX 2006-AR12 Trust before the closing date without proper documentation, and under no circumstances after 2 years, is a violation of the PSA and of New York Trust Law. Consequently, the INDX 2005-AR12 Trust cannot claim any legal or equitable right, title, or interest in Plaintiff's' Note or Deed of Trust since Deutsche Bank cannot take any action which is not authorized by the securitization agreements that created and govern the INDX 2005-AR12 Trust.

40. Plaintiff relied on Defendant Deutsche Bank and their agent OneWest misrepresentations and have been damages in the following ways: (1) she has been paying the wrong party for an undetermined amount of time and overpaid in interest that was over calculated; (2) she has suffered damage to her credit; (3) the title to Plaintiff's Property has been clouded; (4) Plaintiff has expended significant funds to cover the cost of attorneys' fees and

related costs; (5) she has suffered damage to her reputation in the community; (6) are unable to determine whether she sent her monthly Deed of Trust payments to the right party; (7) multiple parties may seek to enforce her debt obligation against her; and (8) any would-be buyer of Plaintiff's Property will find themselves in legal limbo, unable to know with any certainty whether they can safely buy Plaintiff's property or get title insurance.

41. In addition to seeking compensatory, consequential, punitive, and other damages, Plaintiff's seek an Order voiding the Assignment of the DOT, Declaratory Relief as to whether the Deed of Trust secured any obligation of Plaintiff's such that Deutsche Bank could foreclose or collect Plaintiff's' Deed of Trust payments, and a final judgment granting Plaintiff's' quiet title in the Property.

THE FABRICATED FDIC ASSIGNMENT OF IS A FRAUDULENT LIEN THAT CONVEYED NO INTEREST TO DEUTSCHE BANK

42. On or about April 5, 2011 Defendants caused to recorded an ASSIGNMENT OF DEED OF TRUST in the State of California, County of Orange as Instrument No. 2011000171094.(**Exhibit A**). that alleged

"FOR VALUE RECEIVED the undersigned hereby grants and assigns and transfers to Deutsche Bank National Trust Company, as Trustee for the IndyMac INDX Mortgage Loan Trust 2005-AR12, Mortgage Pass-Through Certificates, Series 2005-Ar12, under the Pooling and Servicing Agreement dated June 1, 2005, all beneficial interest under that certain Deed of Trust….

TOGETHER with said Note or Notes therein described and secured thereby, the money due and to become due thereon, with interest, all rights accrued or to accrue under said Deed of Trust."

43. It is alleged and believed that this fraudulent assignment was executed by a OneWest employee [Roger Stotts in Travis County Texas] as an "Attorney in Fact for the FDIC" by a Power of Attorney agreement. [3] At that time of such assignment of DOT occurred OneWest had no legal authority to act. The Limited Power of Attorney had expired. (**Exhibit B**)

[3] The Limited Power of Attorney between OneWest Bank, FSB and FDIC, granting signing authorities, expired June 10, 2010 after the initial extension. FDIC inspector Marshall Gentry produced such document for Plaintiff attached as **Exhibit B**.

44. Upon information and belief the FOIA response, states that only the servicing rights were sold [and not the note]to OneWest. This evidence demonstrates that the Plaintiff's Note was not owned by the FDIC as receiver for IndyMac. The only interest sold by the FDIC to OneWest was on March 19, 2009, and it was servicing.

45. This "Assignment" is a fraudulent lien claim, and the execution, filing, and recordation of the document was created for the purpose of facilitating and aiding & abetting the illegal, deceptive, and unlawful collection of Plaintiff's Deed of Trust payments.

46. Plaintiff further alleges that any amount allegedly owed under the Note is subject to equitable offset by the damages owed to Plaintiff from Defendant Deutsche Bank.

47. Attempting to "assign" or transfer of the DOT, by itself, as Defendants did here, does not allow enforcement of Plaintiff's Note. As alleged herein, Plaintiff's Note was not properly negotiated, endorsed, and transferred to Defendant Deutsche Bank, who seeks to cause its purported authorized agent(s) to collect DOT payments and engage in other unlawful collection practices.

48. The original holder of the Note merged into Washington Mutual, Inc. in March 2006.

49. Washington Mutual, Inc. failed and was taken under FDIC receivership September 2008.

50. The Plaintiff's FOIA request did not reveal any ownership or note that passed through the Washington Mutual, Inc. receivership, and specifically the Plaintiff's Note.

51. The closing date for the PSA operating under New York Trust Law would not allow for any assignment along with the note, that is 5 years after the closing date of this 2005 Trust.

52. OneWest Bank FSB as Deutsche Bank's alleged agent represents that it can rely on the Assignment of the DOT to show ownership of the Note and beneficial interest in the underlying obligation when in fact it knows or should know that it does not have a beneficial interest in the said loan.

FIRST CLAIM FOR RELIEF
DECLARATORY RELIEF/INVALIDATE LIEN [FED. R. BANK. 7001]
[Against Defendant Deutsche Bank]

53. Plaintiff hereby incorporates by reference each and every one of the preceding paragraphs as if the same were fully set forth therein.

54. Plaintiff alleges that Defendant Deutsche Bank does not have a secured or unsecured legal, equitable, or pecuniary interest in the lien evidenced by the DOT and the Note and that the purported belated and fabricated Assignment of DOT has no value since the Note is wholly unsecured.

55. Defendants allege that Plaintiff's Note and DOT cannot be determined to be unsecured and that they have an enforceable interest in, and lien against, the Plaintiff's Note, DOT and Property.

56. Thus, the competing allegations made by this Plaintiff above, establish that a real and present controversy exists as to the respective rights of the parties to this matter, including ownership of the liens against the Property.

57. Accordingly, Plaintiff requests that the court make a finding and issue appropriate orders stating the none of the named Defendants, have any right or interest in Plaintiff's Note, DOT or the Property which authorized them, in fact or as a matter of law, to foreclose or attempt to foreclose or collect Plaintiff's payments.

58. As described above, this Plaintiff will be denied the opportunity to identify their true and current creditor/lender and exercise their right to cure any alleged default. She will be denied the right to conduct discovery and have Defendant Deutsche Bank's claim verified by a custodian of records who has personal knowledge of the loan and all transactions related to it.

Plaintiff will also be denied the opportunity to discover the true amount she still owes, if any amount still exists.

59. It is necessary that the Court declare the actual rights and obligations of the parties and make a determination as to whether Deutsche Bank's claim against Plaintiff is enforceable and whether it is secured or unsecured by any right, title, or interest in Plaintiff's Property as allowed under 28 U.S.C. § 2201.

60. Furthermore, the conduct of Deutsche Bank, and each of them, as herein described, was so malicious and contemptible that it would be looked down upon and despised by ordinary people. Plaintiffs are therefore entitled to punitive damages in an amount appropriate to punish Defendants and to deter others from engaging in similar conduct.

SECOND CLAIM FOR RELIEF
CANCELLATION OF DEED OF TRUST INSTRUMENTS [PENAL CODE 470]
(AGAINST DEFENDANTS DEUTSCHE BANK, and ONEWEST)

61. Plaintiff incorporates herein by reference the allegations made in preceding paragraphs as though fully set forth herein.

62. At all times relevant herein, Deutsche Bank could not hold legal title under the Assignment of DOT purportedly receiving beneficial interest under the Deed of Trust by the Originator Commercial Capital Bank, FSB.

63. In creating and recording false documents as identified in preceding paragraphs, these defendants knew, should have known and know today that the Assignment of DOT did not convey beneficial interest in the Note. The recording was created after the fact and has no force or effect in conferring beneficial interest upon to Deutsche Bank. Such document violates Penal Code 470 and is a forgery which would make such purported document a forgery.

64. In creating and recording false documents as identified in preceding paragraphs, these defendants knew, should have known and know today that the Assignment of DOT was a legal impossibility as the FDIC was not a beneficial owner and could not assign any interest in the note.

65. In creating and recording false documents as identified in preceding paragraphs, these defendants knew, should have known and know today that the Assignment of DOT was a legal impossibility as Commercial did not exist at the time of the fabricated assignment.

66. In creating and recording false documents as identified in preceding paragraphs, these defendants knew, should have known and know today that the Assignment of DOT by Roger Stotts as an attorney in fact for the FDIC by was a legal impossibility and that the signers who represent that they are the Attorney in fact for the FDIC when no Power of Attorney was effective purposely misleads with the knowledge that the document they proffered was nothing more than an attempt to recreate a paper trail. Defendants knew, should have known or knows today that such fabrication with the intent to have Plaintiff act are unconscionable.

67. Defendant Deutsche Bank as indenture trustee of IndyMac INDX 2005-AR12 Trust cannot prove that it had any beneficial interest in the property. For the reasons specified herein, the acts taken by defendants were unauthorized and wrongful and entirely contrary to the required by the California Penal Code 470.

68. The fabricated and meaningless Assignment of DOT constitutes a cloud on Plaintiff's title and causes the Official Records to reflect said Defendant as the current, actual lienholder on said Property.

THIRD CLAIM FOR RELIEF
SLANDER OF TITLE
[Against all Defendants]

69. Plaintiff incorporates herein by reference the allegations made in preceding paragraphs as though fully set forth herein.

70. The fraudulent Assignment of Deed of Trust by Roger Stotts, the alleged agent OneWest's employee, for the FDIC under the OneWest-FDIC ineffective Limited Power of Attorney to Deutsche Bank as indenture trustee of IndyMac INDX 2005-AR12 trust, who was not and never, has been, the holder of the Note, as the “beneficiary” under the Deed of Trust, as well as the robo-signing, and other inappropriate and wrongful acts described herein render the

Deed of Trust, and Assignment of Deed of Trust, as well as any related proceedings, a legal nullity.

71. As a result, this Assignment was and is invalid, and constitute improper clouds on Plaintiff's title to the Property.

72. The recordation of the foregoing document was false, wrongful, without justification, in violation of statute, and without privilege, and caused doubt to be placed on Plaintiff's title to the Property.

73. The recording of the foregoing documents directly impaired the vendibility of the Property on the open market in the sum as may be proved at the time of trial.

74. The recording of the foregoing document made it necessary for Plaintiff to retain attorneys and to bring this action to cancel the instruments casting doubt on Plaintiffs' title.

75. Therefore, Plaintiff is entitled to recover attorneys' fees and costs incurred in cancelling the instrument. The exact amount of such damages is not known to Plaintiffs at this time, and Plaintiffs will move to amend this complaint to state such amount when the same becomes known, or on proof at the time of trial.

FOURTH CLAIM FOR RELIEF
QUASI CONTRACT
[Deutsche Bank]

76. Plaintiff incorporates herein by reference the allegations made in preceding paragraphs as though fully set forth herein.

77. Defendant Deutsche Bank's agent IndyMac Deed of Trust Services demanded monthly Deed of Trust payments from Plaintiff since July 2005, and Plaintiff reasonably relied upon these Defendants' agent's assertion that it was entitled to payments.

78. IndyMac Deed of Trust Services knowingly accepted payments and retained them for their own use knowing that Deutsche Bank did not acquire a proper legal interest in Plaintiff's Note, such that they could accept or keep Plaintiff's Payment. It would be inequitable for these defendants to retain the payments it received from Plaintiff which they did not have legal

authority to collect. The equitable remedy of restitution when unjust enrichment has occurred is an obligation created by the law without regard to the intention of the parties, and is designed to restore the aggrieved party to his or her former position by return of the thing or its equivalent in money.

79. The Deed of Trust states in the "Full Performance" section that: "If Purchaser pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Purchaser under this Deed of Trust, Lender shall execute and deliver a request for full reconveyance and shall execute and deliver purchaser suitable statements of termination of any financing statement on file evidencing Lender's Security interest in the Rents and the Personal Property." The obligations to Commercial and its assigns under the Deed of Trust were fulfilled when OneWest received the balance on the Note as proceeds of sale of Plaintiff's Note and Deed of Trust to a presently unknown entity. Defendants have been unjustly enriched by collecting monthly payments from Plaintiff when it has no interest in her Note.

80. Plaintiff seeks restitution for any payments they made to IndyMac that were not paid to the lender or beneficiary, if any.

FIFTH CLAIM FOR RELIEF
VIOLATION OF 15 U.S.C. § 1641(g)
[Defendant Deutsche Bank]

81. Plaintiff incorporates herein by reference the allegations made in preceding paragraphs as though fully set forth herein.

82. Plaintiff resides in a portion of the Property.

83. The new subsection (g) added to Section 131 of TILA by Section 404 of **The Helping Families Save Their Homes Act of 2009** states:

Notice of New Creditor: "*(g) NOTICE OF NEW CREDITOR.-*

(1) IN GENERAL.- In addition to other disclosures required by this title, not later than 30 days after the date on which a Deed of Trust loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including-

(A) the identity, address, telephone number of the new creditor;

(B) *the date of transfer;*

(C) *how to reach an agent or party having authority to act on behalf of the new creditor;*

(D) *the location of the place where transfer of ownership of the debt is recorded; and*

(E) *any other relevant information regarding the new creditor.*

Failure to comply with the requirements of this new subsection 131(g) of TILA may result in civil liability for actual damages, legal fees or if applicable statutory damages under Section 130(a) of TILA.

84. Irrespective of who effected the recordation of the "Assignment" recorded on April 5, 2011, the purported transfer of ownership of Plaintiffs' Note occurred after May 2009.

85. Plaintiff alleges that Section 131(g) of TILA applies to Deutsche Bank as purported and alleged assignee of Plaintiffs' loan. Plaintiffs are unable to determine which Defendant is the purported beneficiary of Plaintiffs' Note and Deed of Trust.

86. Plaintiff alleges that Section 131(g) of TILA applies to Deutsche Bank as it was purportedly assigned Plaintiff's loan on or about March 29, 2011.

87. Section 131(g) of TILA requires Deutsche Bank to perform and comply with the requirements of the statute, otherwise face statutory and civil penalties and damages. The 30 day period was from March 29, 2011 to April 29, 2011. Since April 29, 2011 Deutsche Bank did not notice Plaintiff as required.

88. Deutsche Bank purports to be a <u>creditor</u> under the alleged "Assignment of Deed of Trust" and is alleged to have violated 15 U.S.C. Section 1641(g).

89. Here, Deutsche Bank is acting as the purported Trustee for a securitized trust pool named INDX 2005-AR12. As such, "Deutsche Bank, as Trustee" claims to be the actual secured creditor.

90. Defendant Deutsche Bank alleges that it is the purported owner of Plaintiff's debt. Plaintiff disputes the validity of Deutsche Bank's claim, for the reasons stated herein, however if proven to be the assigned creditor then it has violated the statute.

91. Defendant Deutsche Bank did not provide Plaintiff with written notice within 30 days after the date on which it was allegedly assigned the Deed of Trust.

92. Plaintiff did not receive notice indicating the exact date of the purported assignment of the interest in her Note, as required by Section 131(g)(1)(B).

93. Plaintiff did not receive notice indication how to reach an agent or party having authority to act on Deutsche Bank's behalf, as required by Section 131(g)(1)(C).

94. Plaintiff did not receive notice indicating the location of the place where transfer of ownership of the debt is recorded , as required by Section 131(g)(1)(D).

95. Plaintiff did not receive notice indicating any other relevant information regarding the new creditor, purportedly Deutsche Bank, as required by Section 131(g)(1)(E).

96. As a result of Deutsche Bank's violations, Plaintiff's Property is threatened to be taken and she has had to pay attorneys' fees to preempt and proactively defend against a fraudulent Proof of Claim process, including filing fees and costs, both in amounts to proven at trial.

97. Plaintiff did not discover that Deutsche Bank had violated U.S.C. §1641, et. seq. until on or about December 1, 2011 when they retained counsel and discovered on the title report that their Deed of Trust had allegedly been "Assigned" to Deutsche Bank. They could not have with reasonable diligence discovered such facts because they did not receive a copy of the "Assignment" as required by law.

98. Thus, Deutsche Bank violated Section 131(g) 15 U.S.C. Section 1641 and is subject to statutory damages, civil liability, penalties, attorney fees, or actual damages. *See* Section 131(g) 15 U.S.C. § 1640. The actual pecuniary damages include, but are not limited to, the over calculation and overpayment of interest on Plaintiff's loan, the cost of repairing Plaintiffs' credit, the reduction and/or elimination of Plaintiff's credit limits, costs associated with removing the cloud on her property title, and attorneys' fees and costs, in an amount to be proven at trial, but in excess of $75,000.00.

99. As a result of Deutsche Bank's violation, Plaintiffs' Property has fallen into bankruptcy and has suffered actual damages in that she is in the process of being threatened other litigation costs. Plaintiff has had to pay attorneys' fees and filing fees and costs, both in amounts to be proven at trial.

100. Plaintiff is entitled to a private right of action to enforce Section 131(g) of § 1641, et. seq.

SIXTH CLAIM FOR RELIEF
QUIET TITLE
ALL DEFENDANTS

(Cal. Code Civ. Proc. 761.010 et.seq.)

101. Plaintiff incorporates herein by reference the allegations made in preceding paragraphs as though fully set forth herein

102. Plaintiff is the owner of Property evidenced by the Grant Deed.

103. The Property is a multi-family unit.

104. Defendants claim an interest adverse to Plaintiff's interest in the Subject Property, in the form of an Assignment of Deed of Trust filed as Orange County Instrument No. R2011000171094.

105. Plaintiff is therefore seeking to quiet title against the claims of said Defendants under the Assignment of the Deed of Trust.

106. A determination is sought as of the filing of this complaint.

107. Plaintiff desires and is entitled to and prays for a judicial declaration quieting title in Plaintiff's name and for a determination of their title against adverse claims of Defendants and Unknown Parties that may claim against Plaintiff.

SEVENTH CLAIM FOR RELIEF

California Business & Professions Code §§ 17200

108. Plaintiff re-alleges and incorporates by reference in this Cause of Action each allegation set forth in paragraphs above.

109. California's Unfair Competition Law ("UCL"), Business & Professions Code Sec. 17200, was designed to protect competitors and consumers from illegal, fraudulent, and "unfair" business practices. The “Unfair” and “fraudulent” prongs provide an independent bases for relief.

110. Fraudulent does not refer to common-law tort of fraud but only requires showing that members of the public are likely to be deceived. [4]

111. Defendants have falsely, fraudulently and deceitfully represented to the Plaintiff that they were the correct holders of her Note and such representations were relied upon by the Plaintiff resulting in unnecessary payments and damage in violation of the Consumer Credit Protection Act.

112. Furthermore, an ordinary consumer and member of the public would be equally deceived by Defendant’s actions as they represented themselves as the beneficial owner of the Note and attempted to collect proceeds under said purchase agreement.

113. Defendants violated 11 U.S.C 1641 (g) as set forth herein and the allegations of which are hereby incorporated in this cause of action by this reference.

114. Such unfair, fraudulent and deceptive acts and omissions, and violation of state law are unfair business practices and constitute a violation of California common law and California Business & Professions Code §§ 17200, et seq. Plaintiff reserves the right to identify additional unfair, fraudulent, or deceptive practices, or unlawful or unfair practices, by Defendants as may be established through discovery.

115. As direct and proximate result of the unfair, fraudulent, and deceptive conduct describe above, as well as the result of their unlawful and unfair business practices as described above, these Defendants has been and will be unjustly enriched.

116. Plaintiff, pursuant to California Business & Professions Code § 17203, seek an order of this Court enjoining these Defendants from further withholding and confiscating any of

[4] Olsen v. Breeze (1996) 55 CR2d 818, 48 CA4th 608.

the monies, funds and property due to the Plaintiff as a result of the unfair business practices alleged herein, and compelling these Defendants to:

a. Make restitution to Plaintiff for all funds unfairly, unlawfully, fraudulently, and deceptively obtained and retained by all Defendants identified herein and/or its agent as a result of the wrongful acts as alleged herein and their violation of California common law and California Business &Professions Code §§ 17200 et seq.; and

b. Disgorge all revenues acquired and retained by all Defendants identified herein and/or its agent as a result of the unfair, fraudulent, deceptive, unlawful business practices alleged herein; and

c. Take steps and actions reasonably and sufficiently necessary to rescind the Deed of Trust Loan and to void any and all deeds of trust or other legal documents pertaining to the property securing the Deed of Trust Loan.

117. Plaintiff is entitled to restitution of her Property (tangible and intangible) and money and funds, as that property, money and funds existed prior to the wrongful actions and conduct of all

118. Plaintiff also seeks such additional equitable relief as may be necessary to provide a complete remedy for Defendants indentified herein and/or its agent's wrongful actions and conduct, including without limitation, injunctive relief, restitution, and restoration of their unencumbered title interest in the real property.

119. Pursuant to federal law, Defendants identified herein, acting as a lender and its assigns, owed statutory duties to the Plaintiff.

120. Despite the statutory duties owed to the Plaintiff, Defendants identified herein violated those statutory duties and, as a result thereof, took advantage of its relationship with the Plaintiff and has been, and is being, unjustly enriched thereby.

121. As a direct and proximate result of the breach of fiduciary duties, these Defendants have been unjustly enriched, and the Plaintiff have been damaged in an amount to be determined at trial.

122. These Defendants, in committing wrongful acts described herein, acted with malice, fraud, and oppression toward Plaintiff in a conscious disregard of Plaintiff's rights.

WHEREFORE, Plaintiff prays judgment against the Defendants, and each of them, as follows:

1. For general and special damages according to proof;
2. For actual monetary damages and/or for compensatory and statutory damages, attorneys' fees and costs according to proof at trial; and for exemplary and punitive damages;
3. For Plaintiff's reasonable attorneys' fees and costs necessary to obtain this relief;
4. For an order voiding any Assignment of the Deed of Trust;
5. For an order of restitution requiring the Defendants to disgorge all revenues acquired from Plaintiff by means of unlawful, unfair, fraudulent and/or deceptive acts or practices as more fully described above and according to proof;
6. For prejudgment interest as allowed by law;
7. For an order that these Defendants are involuntary trustee for the proceeds and property resulting from Defendants and/or its agent's wrongful actions of all money, proceeds and property wrongfully acquired by them;
8. For declaration and order that these Defendants release and re-convey any Deed of Trust or other document signed or entered into and subsequently recorded in connection with the Plaintiff's Note, Deed of Trust and Property;
9. For an order voiding any Deed of Trust, Note and any other document signed or entered into by the Plaintiff in connection with the loan;

10. For an order requiring these Defendants to return all monies, proceeds, payments, funds, revenues, fees and the like acquired from Plaintiff;

11. For an order Forfeiture of return of any loan proceeds;

12. For Quiet Title to the Property in Plaintiff's name;

13. For treble remedies, including disgorgement and punitive damages for deceptive acts;

14. For statutory damages according to proof;

15. For costs of suit herein incurred; and

16. For such other and further relief as this Court may deem just and proper.

Dated: 04/23/12 Respectfully Submitted;

/s/Robert P. Goe
Rob P. Goe, Attorney for Plaintiff/Debtor and Debtor in Possession Trudy Kalush

EXHIBIT A

RECORDING REQUESTED BY
RSM&A Foreclosures Services

WHEN RECORDED MAIL TO:
OneWest Bank, FSB
888 East Walnut Street
Pasadena, CA 91101

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder
9.00
2011000171094 08:00am 04/05/11
10 405 A32 1
0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00

Trustee Sale No. 11CA00190-1
Order No. 110012705

Space above this line for recorder's use only

ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to Deutsche Bank National Trust Company, as Trustee of the IndyMac INDX Mortgage Loan Trust 2005-AR12, Mortgage Pass-Through Certificates, Series 2005-AR12 under the Pooling and Servicing Agreement dated June 1, 2005, all beneficial interest under that certain Deed of Trust dated January 20, 2005, executed by Trudy A Kalush, a single woman, as Trustor; to Commercial Capital Bancorp, Inc, as Trustee; and recorded January 27, 2005 as Document Number: 2005000068194 of official records in the office of the Recorder of Orange County, California.

TOGETHER with the Note or Notes therein described and secured thereby, the money due and to become due thereon, with interest, and all rights accrued or to accrue under said Deed of Trust including the right to have reconveyed, in whole or in part, the real property described therein.

This assignment is made without recourse, representation or warranty, express or implied, by the FDIC in any capacity.

DATE: MAR 29 2011

Federal Deposit Insurance Corporation as receiver for IndyMac Federal Bank, FSB, successor in interest to IndyMac Bank, FSB.

BY*
Roger Stotts ~~Attorney~~ in Fact

STATE OF Texas

COUNTY OF Travis

On MAR 29 2011 before me, Stacey F. Jones, a Notary Public in and for said county, personally appeared Roger Stotts, ~~Attorney in Fact~~, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Stacey F Jones
Notary Public in and for said County and State

STACEY F. JONES
MY COMMISSION EXPIRES
February 11, 2013

Property Address: 16625 SOUTH PACIFIC COAST HIGHWAY, SUNSET BEACH, CA 90742

Exhibit C
FDIC ADOT

EXHIBIT B

Prepared by:

Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

When Recorded Return to:

~~OneWest Bank, FSB~~
888 E. Walnut Street
Pasadena, CA 91101
Attn: Executive Vice President and General Counsel

LIMITED POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") as Receiver for IndyMac Federal Bank, FSB and as Receiver for IndyMac Bank, FSB (hereafter collectively called the "Receiver"), hereby designates the individual(s) listed on Exhibit A hereto (the "Attorney(s)-in-Fact") for the sole purpose of executing the documents referred to in Paragraph 1 below.

WHEREAS, the undersigned has full authority to execute this instrument on behalf of the FDIC as Receiver under applicable Resolutions of the FDIC's Board of Directors and redelegations thereof.

NOW THEREFORE, the FDIC as Receiver grants to the above-named Attorney(s)-in-Fact the authority, subject to the limitations herein, as follows:

1. To execute, acknowledge, seal and deliver on behalf of the FDIC as Receiver for IndyMac Federal Bank, FSB and on behalf of the FDIC as Receiver for IndyMac Bank, FSB all instruments of transfer and conveyance, appropriately completed, with all ordinary or necessary endorsements, acknowledgments, affidavits and supporting documents as may be necessary or appropriate to evidence the sale and transfer of any asset pursuant to that certain Servicing Business Asset Purchase Agreement, dated as of March 19, 2009, between the FDIC as Receiver for IndyMac Federal Bank, FSB and OneWest Bank, FSB.

The form which the Attorney(s)-in-Fact shall use for endorsing promissory notes or preparing allonges to promissory notes is as follows:

Pay to the order of
OneWest Bank, FSB
Without Recourse

FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for [IndyMac Federal Bank, FSB][IndyMac Bank, FSB]

By: ______________________________
Name: ______________________________
Title: Attorney-in-Fact

All other documents of assignment, conveyance or transfer shall contain this sentence: "This assignment is made without recourse, representation or warranty, express or implied, by the FDIC in any capacity."

2. To grant to each Attorney-in-Fact full power and authority to do and perform all acts necessary to carry into effect the powers granted by this Limited Power of Attorney as fully as FDIC or the Receiver might or could do with the same validity as if all and every such act had been herein particularly stated, expressed and especially provided for.

This Limited Power of Attorney shall be effective from March 20, 2009 and shall continue in full force and effect through June 19, 2010, unless otherwise terminated by an official of the FDIC authorized to do so by the Board of Directors ("Revocation"). At such time this Limited Power of Attorney will be automatically revoked. Any third party may rely upon this document as the named individual(s)' authority to continue to exercise the powers herein granted unless a Revocation has been recorded in the public records of the jurisdiction where this Limited Power of Attorney has been recorded, or unless a third party has received actual notice of a Revocation.

IN WITNESS WHEREOF, the FDIC by its duly authorized officer empowered by appropriate resolution of its Board of Directors, has caused these presents to be executed and subscribed in its name as of this 21 th day of December, 2009.

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for IndyMac Federal Bank, FSB

By: ______________________

Name: Herbert J. Held
Title: Associate Director
Division of Resolutions and Receiverships

FEDERAL DEPOSIT INSURANCE CORPORATION as Receiver for IndyMac Bank, FSB

By: ______________________

Name: Herbert J. Held
Title: Associate Director
Division of Resolutions and Receiverships

(CORPORATE SEAL)

ATTEST: Valerie J. Best

Name: Valerie J. Best
Title: Assistant Executive Secretary
Executive Secretary Section
Legal Division

Signed, sealed and delivered
in the presence of

By: Ann Laterra
Name: Ann Laterra
Witness

By: Patricia B. Devoti
Name: Patricia B. Devoti
Witness

[ACKNOWLEDGMENT ON NEXT PAGE]

ACKNOWLEDGMENT

UNITED STATES OF AMERICA)
)
DISTRICT OF COLUMBIA)

On this 21 day of December, 2009, before me, Notary Public in and for the District of Columbia, personally appeared Herbert J. Held and Valerie J. Best, with a business address of 550 17th Street, NW, Washington, DC 20429, who, being duly sworn, severally depose and say:

First, Herbert J. Held, first affiant, for himself, says that he is a Associate Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, the Corporation in whose name the foregoing Limited Power of Attorney has been subscribed, that the said Limited Power of Attorney was subscribed on behalf of the said Corporation by due authority of the Corporation's Board of Directors, and that the said Herbert J. Held acknowledges that said Limited Power of Attorney to be the free act and deed of the said Corporation.

Second, Valerie J. Best, second affiant, for himself, says that she is a Assistant Executive Secretary, Executive Secretary Section, Legal Division, Federal Deposit Insurance Corporation, the Corporation in whose name the foregoing Limited Power of Attorney has been subscribed, that the seal affixed to the said Limited Power of Attorney is the corporate seal of the said Federal Deposit Insurance Corporation, that the said Limited Power of Attorney was subscribed on behalf of the said Corporation and its seal thereto affixed by due authority of the Corporation's Board of Directors, and that the said Valerie J. Best acknowledged the said Limited Power of Attorney to be the free act and deed of the said Corporation.

Gwendolyn J. Alston

Notary Public, District of Columbia
United States of America

My Commission Expires:

SEPTEMBER 14, 2010

Exhibit A

Attorneys-in-Fact

Eric Friedman
Terri Hunter
Roger Stotts
Evelyn L. Chavez
Bart Vincent
Erica Johnson-Seck
Kenneth E. Jancarz
Darryl Williams
Darcy Peters
Bart Lerud
Karen Mastro
Mike Stanford
Dennis Kirkpatrick
Kelley Cooper Spencer
Cynthia Prees
John Gagnon
Carol Norton
V. Lyn Niles
Patrick Monahan
Karen Compton
Aaron Wade
Daris Buckler
David Fawer
Judy Mumford
Kira A. Cleary
Michael Peterson
Michelle Minier
Nancy Armour
Paul Hoffman
Scott Van Dellen
Sheila M. Nix
William Glasgow Jr
William Rothman
Bryan Bly
Vilma Castro
Dhurata Doko
Chris Jones
Tom McKinnon
Elsa McKinnon
Crystal Moore
Jasmin Napier
Dave Pearson
Pamela Marsh
Sue North
Sandra Schneider
Tom Kucera
Robert Abramian

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number	FOR COURT USE ONLY
Robert P. Goe -State Bar No. 137019 Elizabeth A. LaRocque - State Bar No. 219977 GOE & FORSYTHE, LLP 18101 Von Karman Avenue, Suite 510 Irvine, CA 92612 Telephone: (949) 798-2460 Facsimile: (949) 955-9437 Email: rgoe@goeforlaw.com; elarocque@goeforlaw.com *Attorney for Plaintiff* Trudy Kalush	
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: TRUDY KALUSH Debtor.	CHAPTER 11 CASE NUMBER 8:11-19563-ES
	ADVERSARY NUMBER
TRUDY KALUSH Plaintiff(s), vs. DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE OF THE INDYMAC INDX DEED OF TRUST LOAN TRUST. Defendant(s).	*(The Boxes and Blank Lines below are for the Court's Use Only) (Do Not Fill Them In)* **SUMMONS AND NOTICE OF STATUS CONFERENCE**

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend yourself, you must file with the Court a written pleading, in duplicate, in response to the Complaint. You must also send a copy of your written response to the party shown in the upper left-hand corner of this page. Unless you have filed in duplicate and served a responsive pleading by ____________________, the Court may enter a judgment by default against you for the relief demanded in the Complaint.

A Status Conference on the proceeding commenced by the Complaint has been set for:

Hearing Date: **Time:** **Courtroom:** 5A **Floor:** 5th Floor

- ☐ **255 East Temple Street, Los Angeles**
- ☒ **411 West Fourth Street, Santa Ana**
- ☐ **21041 Burbank Boulevard, Woodland Hills**
- ☐ **1415 State Street, Santa Barbara**
- ☐ **3420 Twelfth Street, Riverside**

PLEASE TAKE NOTICE that if the trial of the proceeding is anticipated to take less than two (2) hours, the parties may stipulate to conduct the trial of the case on the date specified, instead of holding a Status Conference. Such a stipulation must be lodged with the Court at least two (2) Court days before the date set forth above and is subject to Court approval. The Court may continue the trial to another date if necessary to accommodate the anticipated length of the trial.

Date of Issuance: ____________________

KATHLEEN J. CAMPBELL
Clerk of Court

By: ____________________
Deputy Clerk

Additional Defendant Parties to Complaint:

2005-AR12, DEED OF TRUST PASS-THROUGH CERTIFICATES, SERIES 2005-AR12, UNDER THE POOLING AND SERVICING AGREEMENT DATED JUNE 1, 2005; ONEWEST BANK, FSB; and DOES 1-100, Inclusive;

Defendants.

In re TRUDY KALUSH	(SHORT TITLE) Debtor(s).	CASE NO.: 8:11-19563-ES

NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on a CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 18101 Von Karman Avenue, Suite 510, Irvine, CA 92612

A true and correct copy of the foregoing document described as Complaint, Adversary Cover Sheet, Summons and Notice of Status Conference will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d), and **(b)** in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On ______________ I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addressed indicated below:

☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):
On ______________ I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follow. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Trudy Kalush
Box 702
Sunset Beach, CA 90742

☐ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on ______________ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Honorable Erithe A. Smith, USBC, 411 West Fourth Street, Santa Ana, CA 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

	Kerry A. Murphy	
Date	*Type Name*	*Signature*

ADVERSARY PROCEEDING COVER SHEET
(Instructions on Page 2)

ADVERSARY PROCEEDING NUMBER
(Court Use Only)

PLAINTIFFS	DEFENDANTS
TRUDY KALUSH	DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE OF THE INDYMAC INDX DEED OF TRUST LOAN
ATTORNEYS (Firm Name, Address, and Telephone No.) Robert P. Goe, Goe & Forsythe, LLP, 18101 Von Karman Avenue, Suite 510, Irvine, CA 92612 (949) 798-2460	**ATTORNEYS** (If Known) Lewis Landau, Esq., Dykema Gossett, LLP, 333 South Grand Avenue, Suite 2100, Los Angeles, CA 90071 (213) 457-1800
PARTY (Check One Box Only) ☑ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☑ Creditor ☐ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)
OBJECTION TO POC #6 1. DETERMINE THE NATURE, EXTENT AND VALIDITY OF LIEN/DECLARATORY RELIEF FRBP 7001, 28 U.S.C. § 2201; 2. CANCELLATION OF DEED OF TRUST INSTRUMENTS [PENAL CODE 470]; 3. SLANDER OF TITLE; 4. QUASI CONTRACT; 5. TILA - 15 U.S.C. §1641 (g); 6. QUIET TILE; 7.UNFAIR BUSINESS PRACTICES

NATURE OF SUIT
(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☒ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☐ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☐ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☐ Check if a jury trial is demanded in complaint	Demand $ 1,500,000.00

Other Relief Sought
Declaratory relief and avoidance of deed of trust.

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR TRUDY KALUSH		**BANKRUPTCY CASE NO.** 8:11-19563-ES
DISTRICT IN WHICH CASE IS PENDING CENTRAL	**DIVISIONAL OFFICE** SANTA ANA	**NAME OF JUDGE** ERITHE A. SMITH
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF NONE	**DEFENDANT**	**ADVERSARY PROCEEDING NO.**
DISTRICT IN WHICH ADVERSARY IS PENDING	**DIVISIONAL OFFICE**	**NAME OF JUDGE**
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/Robert P. Goe		
DATE 4/26/12	**PRINT NAME OF ATTORNEY (OR PLAINTIFF)** Robert P. Goe	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendents.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not presented by an attorney, the plaintiff must sign.