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4 In Propria Persona

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6  
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF GLENN

9  
10 DEUTSCHE BANK NATIONAL TRUST )  
11 COMPANY, AS TRUSTEE OF THE )  
INDYMAC IMSC MORTGAGE, its )  
12 assignees and/or successors in interest, )  
13 Plaintiff )  
14 Vs )  
15 Sarina Nelson )  
16 Defendants )  
17

CASE NO.: 10NUD00320

DEFENDANT'S RESPONSE TO  
PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S EX PARTE  
APPLICATION FOR STAY OF  
ENFORCEMENT OF JUDGMENT

Hearing : May 2, 2011  
Dept: 3  
Time: 10:30 AM

18 TO THIS HONORABLE COURT, ALL PARTIES AND THEIR ATTORNEYS  
19 OF RECORD HEREIN:

20 Defendant, Sarina Nelson ("Defendant") hereby objects to the Plaintiff, DEUTSCHE  
21 BANK NATIONAL TRUST COMPANY, AS TRUSTEE OF THE INDYMAC IMSC  
22 MORTGAGE ("Plaintiff") alleging Defendant's ex parte application to stay the  
23 enforcement of the judgment is without merit and filed solely for purposes of delaying  
24 this unlawful detainer. As this allegation is in two parts so will be the objection.

- 25  
26 1. Defendant has filed NOTICE OF RELATED CASE No. 11CV00922 in the  
27 Superior Court of California, County of Glenn on April 5, 2011 which is now

1 related to Case No. 10NUD00320 of which copies are being provided as  
2 Exhibit A along with the NOTICE OF CASE MANAGEMENT  
3 CONFERENCE which is scheduled for October 14, 2011 at 2:30 P.M.;  
4 SUMMONS; Civil Case Cover Sheet; PLAINTIFF'S COMPLAINT FOR:  
5 (1)Negligence;(2)Fraud; (3) Wrongful Foreclosure; (4)Breach of Contract; (5)  
6 Breach of Implied Covenant of Goodfaith and Fair Dealing; (6) Unjust  
7 Enrichment; (7)Injunctive Relief; and (8) Quiet Title.

9 Defendant's request for a Stay could not be without merit should even  
10 one of the above claims on the complaint be sustained, however, Defendant  
11 has provided to the court through the filing of Exhibit A to have verified  
12 cause for the Complaint and substantial evidence that California Statutes have  
13 been violated and Defendant will provide additional evidence to the facts of  
14 the case which is dependent now on having an extended Stay on the  
15 enforcement of the Judgment to prevent further undue hardship, which further  
16 compromises the Defendant's ability and right to defend against such things  
17 as fraud, harassment, and unfair business practices among others.

18 It should be appropriate here to note also that Defendant will be filing an  
19 Amended Complaint for Case No. 11CV00922 to allow for naming of Does  
20 and to after seeking legal council quite possible removing number (8) Quiet  
21 Title and replacing it with a Complaint to Set Aside Trustee Sale.

- 22  
23 2. Plaintiff alleges the Stay was filed solely for purposes of delaying this  
24 unlawful detainer which is not true. It is the Defendants contention that the  
25 unlawful detainer itself is "unlawful" as it was acquired through "unclean  
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1 hands” and it is the Defendant’s intent to prove that Plaintiff does not have  
2 right to possession of Defendant’s property.

3 I. Introduction

4 For the subject property to be acquired by Deutsche bank it would mean the  
5 property was able to be sold, and it was not. The Deed of Trust recorded in the County of  
6 Glenn attests to the fact that Mortgage Electronic Registration Systems (MERS) as the  
7 beneficiary, claims to have set over, sold, transferred, etc. subject property by way of the  
8 Deed of Trust to OneWest Bank on June 23, 2009 and it was signed by Dennis  
9 Kirkpatrick, claiming to be VP of MERS. Among other irregularities with the transfer of  
10 the negotiable document (note) and the Deed of Trust we see also that according to the  
11 California Secretary of State’s website data base, MERS registered to do business in the  
12 State of California on 05/21/2002 but had since been suspended and RESIGNED ON  
13 03/25/2009 from doing business in the State of California, see Exhibit B. This  
14 suspension was in effect during the time that MERS was also assigning the Deed of Trust  
15 on said property to OneWest Bank, see Exhibit C which was dated on 06/23/2009,  
16 recorded on 10/23/2009 as Recorded Document 2009-5065. MERS did not register and  
17 become active until 07/21/2010 as Mortgage Electronic Registration Systems, Inc. and  
18 until 12/02/2010 as MERS, Inc. A request for certified copy of the business entity  
19 registration information is being made to the Secretary of State along with the proper  
20 fees.  
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23 MERS is but one of the verified registration requests Defendant is making to the  
24 Secretary of State. One for Deutsche Bank National Trust (DBNT) has been sent  
25 requesting the documentation as to their status after finding that record of DBNT can not  
26 be found registered with the Secretary of State to do business in California, see Exhibit  
27

1 D, and the Secretary of States website could not provide the Agent for Service of Process.  
2 Defendant has sent certified mail request and has ordered Business Entities Records from  
3 the Secretary of State see Exhibit E. and told by SOS office that it will be returned in 6 to  
4 10 days however since cutbacks it may take longer.

5 Defendant has failed to find an Agent for Service of Process for Deutsche Bank  
6 National Trust in serving the Complaint Case No. 11CV00922. The first attempt to serve  
7 the attorney representing Plaintiff failed at the front door of the Glenn County court  
8 house when said agent refused service and told server to “send it to Orange County”. A  
9 search for “Who is the agent for service of process for deutsche bank national trust” on  
10 the internet at the local self help legal aid turned up an address and phone number, see  
11 Exhibit F. It was the same as the attorney firm representing DBNT here in the unlawful  
12 detainer case. The representative from the legal self help telephoned directly and was  
13 told by Shahed Shahandeh they were not the proper person to serve. Shahed Shahandeh  
14 was asked for the name of who the person would be and said they didn’t know. Then  
15 attempt to give notice via e-mail to Plaintiff’s attorney in Orange County was rejected by  
16 DBNT via reply e-mail, see Exhibit G. Then a follow-up denial of service through  
17 postal mail service.

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20 Defendant questions Plaintiff’s claim that Defendant was represented by an  
21 attorney on December 18, 2010 and Defendant has no idea who that attorney was or why  
22 it is mentioned in error in Plaintiff’s Introduction because Defendant had no legal  
23 representation for court date on Dec. 20, 2010.

24 Since Plaintiff’s representatives refused service of the complaint they could not  
25 tell in fact by only looking at the Court Docket only (unless there is more to the Court  
26 Docket than I am aware), what has been done, although not yet filed, in the court due to  
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1 the fact that DBNT appears to be avoiding service or has no representative in the State of  
2 California to accept service because they are not in fact registered with the Secretary of  
3 State.

4 According to California Corporations Code Section 2104 if DBNT is claiming  
5 they are a foreign lending institution which has not qualified to do business in this state  
6 and which engages in any of the activities set forth in subdivision (d) of Section 191 shall  
7 be considered by such activities to have appointed the Secretary of State as its agent for  
8 service of process, see Exhibit H. Defendant humbly asks the court's interpretation in  
9 relation to California Corporations Code Section 1702, see Exhibit I, which states in part,  
10 if an agent for the purpose of service of process cannot be located with reasonable  
11 diligence, the court may make an order that the service be made upon the corporation by  
12 delivering by hand to the Secretary of State, or to any person employed in the Secretary  
13 of State's office in the capacity of assistant or deputy, one copy of the process for each  
14 defendant to be served, together with a copy of the order authorizing such service.  
15 Service in this manner is deemed complete on the 10<sup>th</sup> day after delivery of the process to  
16 the Secretary of State. Defendant is waiting on reply from Secretary of State with the  
17 registration information which should include the Agent for service of process, however,  
18 in the case that DBNT is not on record Defendant asks the court to proceed under its  
19 authority to process serve the Secretary of State so that Defendant's Complaint can move  
20 forward as DBNT is the primary defendant in that case as they stand to gain from what  
21 will be proved an unlawful trustee sale and be set aside as void or voidable based on  
22 clouded title and fraud among other things as noticed in Complaint.

## 23 II. PLAINTIFF WAS PROPERLY AWARDED JUDGMENT

1 Although Court found that Plaintiff's Trial Brief with attachments provided a  
2 chain of beneficiaries and trustees which appeared to make the Trustee's Deed upon sale  
3 valid, the Trustee's Deed was a voidable and void document as the Sale itself will be  
4 found to be unlawful itself as Defendants will prove in their Complaint Case No.  
5 11CV00922. MERS in fact prior to the sale did willfully and wrongfully transfer and  
6 assign the Deed of Trust to OneWest Bank. As of April 13, 2011 MERS has been issued  
7 a CONSENT ORDER by United States of America Department of the Treasury  
8 Comptroller of the Currency and through the Board of Governors of the Federal Reserve  
9 System, Federal Deposit Insurance Corporation, Office of Thrift Supervision and the  
10 Federal Housing Finance Agency as OCC No AA-EC-11-20, see Exhibit J.

12 The Agencies have identified certain deficiencies and unsafe or unsound  
13 practices by MERS and MERSCORP that present financial, operational, compliance,  
14 legal and reputational risks to MERSCORP and MERS, and to the participating  
15 Members. Although MERS has begun implementing procedure to remediate the  
16 practices addressed it has not and can not go back in time to justify the fraudulent actions  
17 that have already been done. By reason of their conduct the Board found that MERS  
18 engaged in unsafe or unsound practices that exposed them to unacceptable operational,  
19 compliance, legal and reputational risks and were thereby ordered to address the issues  
20 that caused the discrepancies which led to Unfair Business Practices, negligence, fraud,  
21 etc. Special attention to be directed to items (a) through (f) in Article VII CERTIFYING  
22 OFFICERS. This is where Dennis Kirkpatrick as VP of MERS comes into play with the  
23 question of invalid title and Deed of Trust being transferred to OneWest Bank prior to the  
24 Trustee Sale and previously entered into record with Defendant's Ex Parte Stay of  
25 Judgment filed in Glenn County on April 11, 2011. These findings by the Board of  
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1 Govenors do absolutely back up the question of why the so called Robosigners are illegal  
2 in the state of California and how the inseparable Promissory Note became separated  
3 from the Deed of Trust making it a non-negotiable document.

4 This valid issue is still at issue as Defendant has never been provided a copy of  
5 the original or any other form of the promissory note that was signed and gives more  
6 reason as to why there are 2 different loan numbers remaining at issue in this case. This  
7 also addresses why the documents were not reviewed prior to serving a default notice.  
8 This also provides an answer as to why Defendant was never provided the signed original  
9 promissory note after the alleged default trustee sale.  
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### 11 III. DEFENDANT DOES SUFFER EXTREME HARDSHIP

12 Defendant is currently experiencing extreme hardship which will most definitely  
13 prove to be extensive should this Stay of Judgment of Execution not be provided by the  
14 Court. Defendant has been placed in a position due to illegal actions, negligence,  
15 unlawful transfers of property, etc which have destroyed her name, her credit, her work  
16 and even her ability to rent a house or apartment. That with now caring for her sister that  
17 has just returned home which needs constant supervision and care and with property that  
18 has seasonal needs and are at this time in need of attention Defendant and defendants  
19 property is suffering harm and this is irreparable harm and to move out of her home will  
20 place Defendant into a position that will prevent possible following through with the  
21 valid Complaint. As with any move much time and energy and money is spent in finding  
22 appropriate housing, changing services, finding new work, etc. In an effort to rectify this  
23 unfortunate series of events that have come from an initial Truth and Lending violation,  
24 fraud, unlawful transfer of property, unlawful trustee sale and unlawful eviction  
25 Defendant requests a Stay on the Execution of Judgment while defendant puts that time  
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1 and energy into the investigation and obtaining documents that will be needed to assure  
2 the court that Defendant will win Judgment against Plaintiff and allow Defendant the  
3 proper time to file and present her case to have the unlawful Trustee Sale set aside.  
4 Defendant also believes that even to the degree of fact that has been provided to the court  
5 does demonstrate sufficient grounds warranting a stay. Furthermore Defendant finds no  
6 irreparable harm that will be suffered by Plaintiff should a stay be imposed and definitely  
7 would not outweigh any hardship that may be suffered by Defendant. Plaintiff stands to  
8 lose money, if any, and that is not even comparable to the life and liberty that will be  
9 stolen from Defendant should she be removed from her home and family farm. There is  
10 no comparison her to irreparable harm as the DNBT has already claimed their loss  
11 through their own systems and IRS and still temporarily holds the deed until such time  
12 that the Court finds that due to “unclean hands” that the deed in fact is and has been a  
13 voidable document from its inception on 03/02/2007 .

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15 IV. Defendant’s Ex Parte Application is without merit.

16 As mentioned previously in this response, claims of Unfair Business Practices, fraud,  
17 negligence, and knowingly causing irreparable harm in a court of law should always be  
18 found to have merit until such a time that an action can be taken to correct the harm or  
19 that it is found without a shadow of a doubt that no harm or crime has been committed.  
20 Defendant believes that Plaintiff’s claim to “without merit” has no merit in a court of law  
21 when the court has not yet made a ruling on the entire chain of events. Until all elements  
22 have been provided and have been seen through the eyes of the law, a claim for “without  
23 merit” should not be in question. See Defendant’s Ex Parte Application for Stay of  
24 Enforcement of Judgment, Memorandum of Points and Authorities, Declaration of Sarina  
25 Nelson filed on April 11, 2011 and all attachments.  
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1 Although a rent payment has been made as required by the Court, Defendant  
2 comes before the court and asks that this money would be better served if Defendant  
3 would apply it to a Forensic Audit of the case rather than to pay it to Plaintiff only  
4 because they at this time claiming to be the owner of said Deed of Trust. It is not fully  
5 known at this time how long it will take to find and serve the additional DOES listed on  
6 Defendant's Complaint No. 11CV00922 as Defendant has found that many of those that  
7 will be named in the case have been suspended from doing business in the State of  
8 California for various reasons and have not left a means for contact and each individual  
9 may need to be served by the Secretary of State, see Exhibit K.

11 V. Conclusion

12 Based on the foregoing response to Plaintiff's opposition to Defendant's Ex Parte  
13 Application for Stay of Enforcement of Judgment, Plaintiff has not provided a  
14 Declaration herein or additional competent evidence to support their request that the  
15 Judge dispose of the Stay that is in effect. As Plaintiff states in their response that they  
16 are concerned that granting of a stay will result in Defendant having no incentive to  
17 prosecute her civil action while she is free to live in the Property at no cost whatsoever,  
18 let there be relief in knowing that this incentive will not suffer harm. And in fact Plaintiff  
19 does raise a valid issue and in that the monthly payment that was ordered to be paid to the  
20 DBNT would be better served to further the prosecution of the civil action and those  
21 funds would serve a better purpose if used for a forensic audit of the case and would  
22 provide for help in obtaining legal council to represent Defendant in prosecuting her civil  
23 action which will most assuredly provide for a more expeditious fair and more thorough  
24 hearing. Having the ability to obtain legal representation will save not only time for all  
25 involved but also limit court costs for all parties involved and provide for a means which  
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1 allows Defendant all remedies that are afforded her in a court of law. The time involved  
2 in learning the procedures and the laws themselves has been a hardship, the closest law  
3 library is in Oroville, California and is 85 miles round trip. This has caused delay in  
4 obtaining legal advisement on issues that are foreign to Defendant. Defendant will be  
5 more diligent in the efforts to obtain legal counsel to expedite this process and Defendant  
6 prays that the Judge will provide additional time on Stay to allow that full justice be  
7 served. It is a hardship not having a declared and specified length of time to appropriate  
8 the best use of time and energy and Defendant sees no valid reason for not extending the  
9 Stay of Execution until such time as the Complaint can be reviewed and heard at the Case  
10 Management Conference scheduled for October 14, 2011 as in this case as Defendant  
11 understands it, should provide monetary relief should Plaintiff in fact have their  
12 arguments confirmed during the hearing on said Complaint.  
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14 Defendant does not see the facts and finding in Defendant's request for Stay  
15 either without merit or frivolous although according to the Secretary of State it may be  
16 that Deutsche Bank sees all claims against them either without merit or frivolous  
17 according to the contributions made to the Taxpayers Against Frivolous Lawsuits as  
18 documented in Exhibit L. It appears that with contributions from Deutsche Bank to said  
19 fund in the amount of \$400,000 that the amount that Deutsche Bank would be without  
20 while pending litigation in Defendant's case would not cause irreparable harm.  
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23 DATED: 28 April 2011  
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Sarina Nelson – Plaintiff  
In Propria Persona  
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