

**COMMONWEALTH OF KENTUCKY  
FAYETTE COUNTY CIRCUIT COURT  
CASE NO. \_\_ - CI - \_\_\_\_\_**

STANFORD WEST  
324 Spring Valley Lane  
Lexington, KY 40511

PETITIONER/PLAINTIFF

vs.

**VERIFIED PETITION FOR DISCOVERY**

WELLS FARGO BANK, N.A.  
% Corporation Service Company, Registered Agent  
421 W. Main Street  
Frankfort, KY 40601  
**SERVE VIA: SHERIFF SERVICE**

DEPONENT/DEFENDANT

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**VERIFIED PETITION FOR DISCOVERY PURSUANT TO CR 27.01**

Petitioner/Plaintiff Stanford West (hereinafter "Petitioner" or "Mr. West") hereby brings this action against Deponent/Defendant Wells Fargo Bank, N.A. (hereinafter "Wells Fargo") and states as follows:

1. Stanford West is a petitioner in this action and he anticipates being a party to an action cognizable against Wells Fargo in a court in this state, likely to be filed in the United States District Court for the Eastern District of Kentucky, Lexington Division. This action arises out of the September 11, 2018 letter from Wells Fargo to the Wests attached as Exhibit A to this verified petition.

2. Stanford West is able to discern from the letter sufficient details about the reported "mistake" to determine whether or not a basis exists to file an action against Wells Fargo at this time. The information necessary to make this determination is exclusively in the possession of Wells Fargo. As a result of the vague letter sent by Wells Fargo, the petitioner is

unaware of an affirmative cause of action that may be brought against based upon the applicable statute of limitations for any claim.

3. Based upon the WF Letter which is an admission by Wells Fargo that an error occurred in the review of one or more loan modification applications seeking to modify the note and mortgage secured by the real estate located at 4157 Watertrace Drive, Lexington, KY 40515 (the "Property"), Mr. West reasonably believes that there may be a viable claims for this error or these errors committed by Wells Fargo referenced in this letter as the admitted errors by Wells Fargo substantially contributed to the loss of the Property via Master Commissioner Sale in Fayette County Circuit Court Case No. 12-CI-4950 captioned *Federal National Mortgage Association v. Melissa West, et al.* (the "Foreclosure case")

4. Based upon the WF Letter, the errors that committed by Wells Fargo were not known or could have reasonably been known by West to raise as counterclaims, whether compulsory or permission, in the Foreclosure case.

5. Based upon the WF letter, Mr. West is petitioning this Court for an Order to depose a corporate representative under CR 30.02 of Wells Fargo. Mr, West would propose the deposition take place at one of three locations: Wells Fargo's corporate headquarters located at 420 Montgomery Street, San Francisco, CA 94163; Wells Fargo's location located at 800 Walnut Street, Des Moines, IA 50309, where the Mr. West believe Wells Fargo maintains the servicing files and the majority of all employees who serviced the mortgage on the Property, or in Fayette County, Kentucky as soon as possible.

6. Mr. West would limit the scope of the questioning of Wells Fargo pursuant to CR 30.02 to the following topics related to the Property and the WF Letter:

- a. The August 3, 2018 Form 10-Q filed by Wells Fargo which is attached as Exhibit B to this Petition. Included in this topic would be questions related to:
- i. Explanation as to “mortgage loan underwriting tool” identified in the Form 10-Q and how it was used by Wells Fargo in the servicing of the loan on the Property;
  - ii. Explanation as to the “calculation error” identified in the Form 10-Q and whether it applied to the servicing of the loan on the Property including all applications for loss mitigation submitted by West to Wells Fargo for the applicable times referenced in the Form 10-Q through the Master Commissioner Sale in the Foreclosure;
  - iii. Explanation as to the nature, scope and purpose for the “attorneys’ fees” identified in the Form 10-Q, whether/how these “attorneys’ fees” were calculated during the servicing of West’s Loan by Wells Fargo including all applications for loss mitigation submitted by the Plaintiffs to Wells Fargo for the applicable times referenced in the Form 10-Q through the Master Commissioner Sale in the Foreclosure;
- b. The following questions related to the WF letter:
- i. The investigation done by Wells Fargo including all memorandum, servicing notes, calculations, etc. in making the determination to send the WF letter to Mr. West;
  - ii. The investigation done by Wells Fargo including all memorandum and calculations in making the determination to send the underlying financial compensation amount to the Wests in the WF letter;

- iii. The calculations, worksheets, memorandum and work product related to all applications for loss mitigation submitted by West to Wells Fargo for the Property during the period of time covered by the Form 10-Q; The Petitioner would anticipate this topic of questioning will include production of all applicable policy and procedure manuals related to the servicing of the loan to the Property for all relevant times in the Property;
- iv. The policy and procedure manuals related to the Mediation referenced in the WF Letter; the Petitioner would anticipate this topic of questioning will include contracts with all mediators referenced in the WF letter; and,
- v. The date or dates that Well Fargo and its employees became aware of the mistake.

7. Mr. West anticipates that some or all of all testimony referenced in Paragraph 6 may include proprietary information and personal information of the petitioners and may be appropriate for the issuance of an immediate Protective Order. If the Court grants this Petition, the Petitioner will consent to a reasonable Protective Order with this Court.

8. Prior to the filing of this Petition, the Petitioner retained undersigned counsel. Mr. West, through Counsel, sent Wells Fargo three pieces of correspondence on September 27, 2018 in an attempt to obtain the requested discovery in this petition through the procedures under the Real Estate Settlement Procedure Act. Those pieces of correspondence, attached as Exhibit C to this Petition were:

- a. Notice of Error pursuant to 12 C.F.R. 1024.35(b)(5) and 12 C.F.R. 1024.34(b)(11);
- b. Request for Information pursuant to 12 C.F.R. 1024.36; and,

c. Request for Information pursuant to 12 C.F.R. 1024.36.

9. On or about October 10, 2018, Mr. West's undersigned Counsel Brian D. Flick, Esq. received a written correspondence from Bob Kohls, Esq., who identified himself as Counsel for Wells Fargo, which is attached as Exhibit D. According to Mr. Kohls, Wells Fargo has no obligation to provide the requested documentation in Exhibit C as the sale of the foreclosure was June 30, 2014. *Exhibit D* at p.1.

10. On or about October 18, 2018, Wests' undersigned Counsel Brian D. Flick, Esq.'s partner Marc E. Dann, Esq. received additional written correspondence from Wells Fargo attached as Exhibit E. Through Exhibit E, Wells Fargo claims they are unable to identify mortgages for the customers' names that DannLaw provided in various correspondence including the Wests. *See Exhibit E* at p. 1. However, Dann's letter to Wells Fargo, attached hereto as *Exhibit F*, was a simple document preservation letter on behalf of several DannLaw clients, including Mr. West who had received the letter admitting a mistake from Wells Fargo. Wells Fargo's general counsel, to whom the letter was addressed, neither agrees to preserve documents nor advises Mr. Dann that he wouldn't so agree.

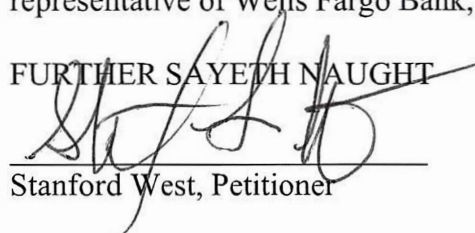
11. There are a variety of statutes of limitations that potentially apply to claims that may be brought against Wells Fargo. As the sale of the property occurred as of June 30, 2014, the other purpose of this Petition is to determine whether the Discovery Rule applies to any claims.

12. Based upon all of the statements herein as well as Exhibits D, E, and F, Wells Fargo has taken the position that an error occurred in the servicing of the loan on the Property (September 11, 2018 - Exhibit A), then took the position through its Counsel that Wells Fargo does not have to comply with RESPA (October 10, 2018 - Exhibit D), and finally took the

position it could not find specific accounts including the account for the Wests. (October 18, 2018 - Exhibit E). These contradictory positions led Mr. West to reasonably believe that the discovery sought from Wells Fargo is at risk of being destroyed or misplaced as in the last 120 days

WHEREFORE Petitioner Stanford West respectfully requests this Court grant this Petition for Discovery and provide an Order permitting the Petitioners to depose a corporate representative of Wells Fargo Bank, N.A. pursuant to CR 30.02 as soon as possible.

FURTHER SAYETH NAUGHT

  
Stanford West, Petitioner

Nov. 6, 2018  
Date

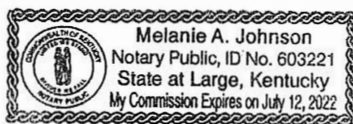
STATE OF KENTUCKY

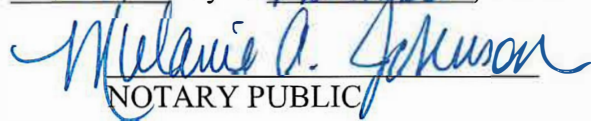
:: SS

COUNTY OF FAYETTE

Before me, a Notary Public in and for said county, personally appeared the above named STANFORD WEST, who acknowledged before me that she did sign the foregoing instrument and that the same is her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my office seal at Lexington, Kentucky on this 6th day of November, 2018.



  
NOTARY PUBLIC

Respectfully submitted,

/s/ Brian D. Flick, Esq.  
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CRAIG HENRY PLC

James Craig  
/s/ James Craig  
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*Counsel for Melissa Monday-West and  
Stanford West*

766469E2-8F30-4D09-93F6-C956F4E9F4F8 : 000007 of 000013

Presiding Judge: HON. THOMAS L. TRAVIS (622370)

COM : 000007 of 000007

COMMONWEALTH OF KENTUCKY  
FAYETTE COUNTY CIRCUIT COURT  
CASE NO. \_\_ - CI - \_\_\_\_\_

MELISSA MONDAY-WEST  
STANFORD WEST  
324 Spring Valley Lane  
Lexington, KY 40511

PETITIONERS/PLAINTIFFS

vs.

WELLS FARGO BANK, N.A.  
% Corporation Service Company, Registered Agent  
421 W. Main Street  
Frankfort, KY 40601

DEPONENT/DEFENDANT

\*\*\*\*\*

**NOTICE OF VERIFIED PETITION FOR DISCOVERY PURSUANT TO CR 27.01**

TO: WELLS FARGO BANK, N.A.  
% Corporation Service Company, Registered Agent  
421 W. Main Street  
Frankfort, KY 40601

Petitioners MELISSA MONDAY-WEST and STANFORD WEST hereby serve Notice that they have filed the attached *Verified Petition for Discovery* seeking an Entry Permitting the Petitioners to depose a corporate representative of Wells Fargo Bank, N.A. pursuant to CR 30.02.

**Pursuant to the Summons served by the Fayette County Circuit Court, you have twenty (20) days to respond to the Verified Petition for Discovery from the date you are served the Petition. Please review the Summons for instructions as to how to respond.**

**If the Entry is Granted, Petitioners will seek an Entry to Depose a Corporate Representative of Wells Fargo Bank, N.A. on TUESDAY, DECEMBER 18, 2018 AT 9:00 AM. The Plaintiffs propose to take this deposition at Wells Fargo Bank, N.A., 800 Walnut St., Des Moines, IA 50309.**

Respectfully submitted,

/s/Brian D. Flick, Esq.



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CRAIG HENRY PLC  
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/s/ James Craig  
239 South Fifth Street, Suite 1400  
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Telephone: (502) 614-5962  
Facsimile: (502) 614-5968  
[jcraig@craighenrylaw.com](mailto:jcraig@craighenrylaw.com)

*Counsel for Melissa Monday-West and  
Stanford West*

#### **CERTIFICATE OF SERVICE**

I hereby certify on November 7, 2018, a copy of this *Notice of Verified Petition for Discovery along with the Verified Petition for Discovery and all Exhibits, and Proposed Entry Granting Verified Petition for Discovery* was served upon the following party via certified U.S. Mail:

WELLS FARGO BANK, N.A.  
% Corporation Service Company, Registered Agent  
421 W. Main Street  
Frankfort, KY 40601

and a courtesy copy was sent on November 7, 2018 to the following party via certified US Mail:

Bob Kohls, Esq.  
Wells Fargo Bank, N.A.  
800 Walnut Street  
Des Moines, IA 50309

/s/Brian D. Flick, Esq.  
Brian D. Flick, Esq. (0095244)  
*Attorney for Plaintiffs*

**COMMONWEALTH OF KENTUCKY  
FAYETTE COUNTY CIRCUIT COURT  
CASE NO. \_\_ - CI - \_\_\_\_\_**

MELISSA MONDAY-WEST  
STANFORD WEST  
324 Spring Valley Lane  
Lexington, KY 40511

PETITIONERS/PLAINTIFFS

**vs.**

WELLS FARGO BANK, N.A.  
% Corporation Service Company, Registered Agent  
421 W. Main Street  
Frankfort, KY 40601

DEPONENT/DEFENDANT

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**ENTRY GRANTING PETITIONERS' REQUEST FOR DISCOVERY PURSUANT TO  
CR 27.01**

This matter is before the Court on Petitioners Melissa Monday-West and Stanford West's Petition for Discovery upon Wells Fargo Bank, N.A. pursuant to CR 27.01. The reasons for Petitioner's request are fully contained therein.

For good cause shown the Court hereby GRANTS Petitioners' request. Petitioners Melissa Monday-West and Stanford West shall be permitted to proceed with a Deposition pursuant to CR 30.02 of Wells Fargo Bank, N.A. based upon the topics specified in Paragraph 7 of Petitioners' Request.

Petitioners shall file a Notice of Deposition of Wells Fargo Bank, N.A. within seven (7) days of this Entry with this Court specifying the date and location of the deposition of Wells Fargo Bank, N.A. pursuant to CR 30.02.

IT IS SO ORDERED.

\_\_\_\_\_  
JUDGE

Respectfully submitted,

/s/Brian D. Flick, Esq.

Brian D. Flick, Esq. #0095244

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*Counsel for Melissa Monday-West and Stanford West*

Copies to:

Brian D. Flick, Esq.

James Craig, Esq.

Wells Fargo Bank, N.A. % Corporation Service Company, Registered Agent

Wells Fargo Bank, N.A. % Bob Kohls, Esq.



**CIVIL SUMMONS**

Case #: **18-CI-03929**

Court: **CIRCUIT**

County: **FAYETTE**

*Plaintiff, WEST, STANFORD VS. WELLS FARGO BANK, N.A., Defendant*

**TO: WELLS FARGO BANK, N.A.  
C/O CORPORATION SERVICE COMPANY  
421 W. MAIN ST.  
FRANKFORT, KY 40601**

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Fayette Circuit Clerk  
Date: **11/7/2018**

**Proof of Service**

This Summons was:

☐ Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

☐ Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title





Commonwealth of Kentucky  
Vincent Riggs, Fayette Circuit Clerk

Case #: 18-CI-03929

Envelope #: 1304205

Received From: BRIAN FLICK

Account Of: BRIAN FLICK

Case Title: WEST, STANFORD VS. WELLS FARGO BANK,

Confirmation Number: 84641697

N.A.  
Filed On: 11/7/2018 1:56:36PM

#	Item Description	Amount
1	Access To Justice Fee	\$20.00
2	Civil Filing Fee	\$150.00
3	Money Collected For Others(Court Tech. Fee)	\$20.00
4	Library Fee	\$1.00
5	Court Facilities Fee	\$25.00
6	Money Collected For Others(Attorney Tax Fee)	\$5.00
7	Money Collected For Others(Fayette Electronic Service Copies)	\$1.30
8	Money Collected For Others(Fayette Co. Sheriff)	\$40.00
TOTAL:		\$262.30