OSC CASE # 30-2008-00107531
Appeal Case # G043669

IN THE COURT OF APPEAL
STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

KAREEM SALESSI
Plaintiff and Appellant,

vs.

"WACHOVIA MORTGAGE, FSB FKA WORLD SAVINGS BANK, FSB, A FEDERAL SAVINGS BANK"[a Fictional Non-Entity]; Defendants/Respondents.

APPEAL FROM THE SUPERIOR COURT OF ORANGE COUNTY
WILLIAM MONROE, JUDGE
CASE NO. 30-2008-00107531

APPELLANT'S OPENING BRIEF ON THE MERITS

Kareem Salessi, Plaintiff and Appellant
30262 Crown Valley Pky, B-174
Laguna Niguel, California, 92677
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INTRODUCTION

1- ADOPTION OF OTHER CASES INTO THESE APPEALS:

By adopting the facts, contentions, and discussions set forth in the related cases cited below, Salessi eliminates the need for elaborate introduction and discussion sections and instead adopts the said below documents as if they were fully integrated into this opening brief, with this reference.

California Rules of Court, rule 13(a)(5), provides a mechanism for joining or adopting "by reference all or part of a brief in the same or a related appeal." This mechanism's primary purpose is to "expedite briefing in multiparty appeals." *(California Rules of Court, rule 13(a), Advisory Com. com. (2002).*

Therefore, pursuant to California Rules of Court, rule 13(a)(5), appellant Salessi adopts and joins, herein by reference, the entirety of Salessi's related Case **#G040713** (Writ Petition), and its subsequent Petition for Review in the Supreme Court of California, case **#S166021** (2008 WL 4381226). The bodies of these writs are included in the Respondents' Appendix of Wachovia (**RAW**), in tabs 15 and 20, respectively (namely Wachovia's Opening Brief in the consolidated cases: **G040958; G041464**. The bodies and the Appendices to both cases had been timely filed with this court of appeal in 2008, together with the originals, and/or copies of the said documents. Salessi similarly adopts, and joins by reference the entirety of his Opening Brief; Reply Brief; Appellant's Appendix; and his filed Requests for Judicial Notice filed in the consolidated cases **(G040958; G041464)**, as if fully set forth herein and integrated in this Opening Brief of case # **G043669.**

The Oral Argument of the above consolidated cases were heard on 4/21/11. Respondents raised no objections to Appellant Salessi's arguments. The contents of that Oral Argument, as well as the uncontested Oral Argument of the related case G038002 are also adopted, and joined herein, as if fully integrated into this opening brief, with this reference. The above two uncontested Oral Arguments established the fact that First Team Real Estate, together with its affiliates, and World Savings Bank (now appearing as Wachovia), were nothing but massive real-estate, and money laundering, and forgery operations. In April 2010, Salessi published the G038002 Oral Argument on his Blog **at: www.KareemSalessi.wordpress.com** . As this voice recording has gone uncontested, its contents have become proof of fact, and adopted as integrated parts of this opening brief.

2- GROUNDS FOR THIS APPEAL:

On 11/24/09, following a sham motion, a document styled: **"ORDER GRANTING MOTION TO EXPUNGE *LIS PENDNES*"** was file-stamped **"Nov 24 2009"**, but singed by the trial judge on **"Nov. 25, 09",** was void on its face based on this discrepancy alone. Clerk's Transcript (CT 2965). The contents of this doctored order far exceeded the scope of the title of the order, and the scope of the hearing, by directing the Orange County Recorder to expunge all other documents of title, and further ordering the Recorder to expunge any other documents of tile which may ever be recorded in the future! The sham order was not served to Appellant Salessi, who timely filed a Notice of Appeal on 5/13/10, before the 180 day deadline. This appeal followed. Salessi attempted to consolidate this case with its two predecessor cases (**G040958; G041464),** but this court denied the request.

3- FACTS:

Appellant Kareem Salessi (Salessi) filed Orange Superior Court RICO/Fraud Case #04CC11080 regarding the subject property of the underlying lawsuit. Three years later, Salessi prevailed in that case upon the grant of $825,000 total judgments against several defendants. Also, during late 2007 to early 2008, Salessi discovered that the grant deed, and loan documents, of the purported sale of the subject property had all been systemically forged by most defendants, at every stage, in particular by: ***First Team Real Estate; Coast Cities Escrow; Commonwealth Title; World Savings Bank, FSB; Orange County Assessor/Recorder; Thomas Abercrombie; Alpha Appraisals.*** Until now, courts have praised the forgeries, and the forgers, partly as follows:

Before the Oral Argument of 9/18/2008, in the related case # **G038002,** Salessi filed a Request for Judicial Notice (RJN) of a publicly recorded document titled: **"NOTICE OF INTENT TO PRESERVE INTEREST"** (CT 2717). Although the entire document is not in the Clerks Transcript, most of its exhibits are included in (CT 84-102), also at (AA 31-45). That RJN provided forensic proof of the forgeries of the deed and loan documents pertinent to all these cases. However, this court ignored this publicly recorded proof, even though Salessi discussed the forgeries at length on 9/18/08, and respondents did not contest at all. This document has been fraudulently removed from Orange County's Records, without notice to Salessi (CT 1343-1356). Respondent's motion, which resulted in multiple fraudulent expungements, only has the face page of this document, while excluding the forensic evidentiary exhibits which prove the forgeries (CT 2585).

The operative forgery facts of the events, pertaining to these cases, are encapsulated in (CT 1964-1968). To complement the facts Appellant now picks

up where he left off, at the 4/21/11 Oral Argument, where he ran out of time before explaining why the grant deed had been forged. These left out details are on the basis of Salessi's findings of First Team Modus Operandi crimes:

As discussed and proved by Salessi, in these cases and in two Appellate Oral Arguments on 9/18/08, and 4/21/11, First Team Real Estate (First Team), and its affiliate companies, like Coast Cities Escrow, were forgery and real estate laundering operations. They are not franchises, but an integrated private RICO enterprise closely held and operated, by its owner Mr. Cameron Merage. Fraudulent warehousing, and the subsequent laundering, of real estate has evidently been the core of First Team's activities as herein described.

In the purported sale of the subject property (Aloma) to Salessi, First Team had listed Aloma for $450,000 but concealed the listing from Salessi, in conspiracy with the fraudulent broker Abercrombie and his agents (Agent/s). Agent was instructed to write Salessi's preliminary offer to purchase at the price of $335,000, which price Salessi believes was eventually paid to the sellers Ortiz, while the Ortiz had been promised to receive a price, close to the listing price, which was twice the real cash value of Aloma, since only its lot had value. This valuation was determined in the course of the trial hearings of October 26-27, of 2007, in OSC case # 04CC11080, where he court granted Salessi $825,000 for damages, and for the demolition and reconstruction of Aloma.

When Salessi was denied disclosure documents, including appraisal, termite report, and the like he suspected foul play and raised concerns. Next, First Team & Ortiz faxed Salessi an escrow cancellation notice, dated 10/29/02 (CT 1962). This document cancelled the fraudulent escrow, as it was never novated. A new offer and contract from Ortiz was necessary to act as novation requiring

Salessi's singing. While appellant was waiting for this new contract First Team defendants forged all the purported loan and grant deed documents, **because:**

- Ortiz had already been compelled to sign a grant deed to First Team for around $335,000, to prevent the cancellation of escrow of the house they moved into, while using a bridge financing guarantee issued by First Team, thus secretly selling the house over $100K short of its listed price;
- First Team then warehoused the subject property and began soliciting for the highest bidder;
- Salessi believes he was one of several potential victims of this sale;
- Because Salessi singed and returned the 10/29/02 cancellation, the First Team forgers had to forge not only the loan documents but also the grant deed because Ortiz was not to know the final amount they managed to steal, which amount is still unknown, but must be above $450,000. Further, Ortiz who had probably already singed one grant deed, must have refused to sign a second grant deed, this time in favor of the would be victim, Appellant Salessi. Therefore, First Team, as a matter of their routine operations, forged the grant deed.

Salessi believes that the above warehousing and laundering was the routine Modus Operandi signature crime of First Team in most of its listings, as Appellant had observed, from reading multiple lawsuits against First Team for committing similar real estate warehousing, laundering, and forgery schemes. This operation is similar to extremely illegal insider trading conduct in regulated financial markets, and as performed with real-estate, is also totally illegal in the highly regulated real-estate markets, which must concentrate on truthful disclosures only, as opposed to total concealment and misrepresentation.

Recent analysis of the Clerk's Transcript supports the above modus operandi of first team, beginning with its reflection in (CT 74 Lines 17-21) of the original, and deficient, attorney Ross complaint, where he falsely asserts that the Salessi purchased the house **"subject to"** two loans in favor of World Savings. "Subject To" is a term of art in the real estate and lending businesses which exclusively means that assuming, or taking over, a preexisting loan. The only reliance of Wachovia lawyers in their pleadings has been this particular false assertion in the original complaint, an assertion which appears to have been dictated to attorney Ross by Wachovia attorney/s AFRCT, in conjunction with influencing Mr. Ross to circumvent my original complaint which included cancellation of fraudulent instruments, and quiet title action.

If the **"subject to"** assertion of Mr. Ross, and its affirmance by Wachovia, are true, then this reveals that First Team had created the two loans of $310,000 and $88,600, totaling $398,600, and stolen Salessi's cash of $55,000, making a total of $453,600, minus the cancelled purchase contract of $335,000, amounting to grand theft proceeds of at least **453,600-335,000=$118,600,** which amount also independently checks with the final proceeds which must have been handed to Ortiz. Therefore, fraudulent concealment of First Team and World Savings, now Wachovia Drug Cartel, comes to light from their own mouths, now 9 years after the fraudulent chain of transactions in 2002.

The above scenario also makes the most sense as to why First Team forged all the documents in 2002, which forgeries World Savings also admitted to, as already proven to this court. The truth must have been that First Team created these loans in its own name, and cashed its proceeds, plus Salessi's money, then forged the documents and transferred its two loans to Salessi's name; forged the grant deed in place of the Ortiz; and secretly withheld at least

$118,600 from the entire proceeds. Having done this type of fraudulent laundering operations with thousands of houses in the past decade, it is no wonder that First Team's business mushroomed like the mushroom cloud, of an atomic bomb.

In addition to forensic expert's evidencing forgeries of the deed and loan documents, Wachovia lawyers' have blatantly testified to that at least in two occasions, namely in Request #4 or **(RJN-4)**; (CT 1888 ¶ 20) & (CT 157 ¶ A). The admission above is escalated with the perjury of attorney Hickman in (CT 157 ¶ 6) where he falsified two pages of Salessi's deposition testimony, as against its contents, and conveniently omitted the next page where Salessi had probably documented his rescission efforts, in 2002, and thereafter, such as in (CT [illegible]).

Reverting to the 4/21/11 Oral Argument discussion of two fraudulent orders dated 7/15/08, with two perjured proofs of service, Salessi brings the court's attention to the fact that on that date Mr. Bryan Stewart, attorney for Fidelity had NOT attended the hearing at all, so he couldn't have been served either before, or after that hearing, while the judge-singed order has a proof of service, signed by attorney Hickman, that he served it personally, before the proceedings, both to Appellant Salessi, and to Attorney Stewart, and a similar order with the judge's rubber-stamp, crossing Mr. Stewart's name on the proof of service. (CT 2380-2388), meaning that Mr. Hickman had personally served the fraudulent order only to Salessi, NOT to attorney Stewart, thus each proof of service became proof of perjury of the other proof of service, as Salessi stated in the 4/21/11 Oral Argument.

No copies of these orders had been served to Salessi, before, or throughout the 7/15/08 sham proceedings, and that is confirmed by attorney Hickman's

own contradictory statements in (CT 2180-2182). Attorney Hickman's double standard relating to correct service of process is further evident (CT 1048) where he complains to have received Salessi's documents a few days late, owing to an inaccurate zip-code. He further proved this double standard on (CT 1050 ¶ 5) where he claims that his filing of the demurrer was timely on 7/8/08, while he had been personally served the complaint in court on 6/4/08, by attorney Barry Ross. On, or about 7/5/08, Salessi submitted Application for Entry of Default, against all defendants; However, owing to a very obvious racket in the Superior Court Clerk's defaults section, the said Applications had been rejected with groundless excuses as to name discrepancies.

Additional proof of the trial court's prejudicial treatment of Salessi, and its bending backward for attorney Hickman, is the fact that the court blocked, and rejected, the filing of Salessi's verified complaint against attorney Hickman's law firm (AFRCT), despite Mr. Hickman's judicial declaration in open court that the complaint had been properly and timely filed by Salessi's process server, Mr. Mishlove (CT 1927 ¶ 2) where he declares that Mr. Mishlove had tried to file it in the court room, just after 1 p.m. but before hearings at 2 p.m., but that the clerk had rejected it. This rejection had been due to the specific instructions the clerk had from the judge, as to rejecting anything presented by Appellant Salessi. For this reason Mr. Misholve's attempted filing had been fraudulently rejected by the court clerk, and he had to go back downstairs and to stand in a long line at the clerk's filing counter, on the ground floor, in order to file the verified complaint on 9/23/08 (CT 1364-1373).

However, this "verified supplemental complaint" against Wachovia lawyers was deemed already filed as of its first presentation to courtroom C-16 clerk, and before the hearings began on 9/23/08, pursuant to the long-standing

Supreme Court rulings in: *Andrew v. Metzner* (1927) 83 C.A. 764, 257 P. 203 [**time of filing is time of delivery to courtroom clerk**]; and pursuant to *People v. Ramirez* (1931) 112 C.A. 507, 510, 297 P. 51 [**filing is complete on delivery of papers to courtroom clerk** even though they are subsequently lost]. Salessi also herein refers to the two critical documents which had been stolen by the court, from court file, as documented in the related consolidated appeals. The Monroe court's prejudicial conducts against Salessi was endemic. So, even if the clerk had taken delivery of this document, the court may have conveniently taken it out of the case file, and deem it unfiled, as they did with the others, until their theft was eventually discovered during Salessi's preparation of the consolidated appeals' Opening Brief.

4- **Global Facts Related to this Appeal:**

In furtherance of their proven modus operandi signature crimes, in the theft and laundering, of the millions of properties, and under false foreclosure flags, banks have done whatever it takes to expunge any valid liens, or documents of title, in order to dump the stolen realty on to purported buyers and thus complete a cycle of real-estate laundry. According to publicly available data around 40 million pieces of real estate have been successfully laundered since 2007, primarily by bankrupt banks such as Countrywide, Washington Mutual, Wachovia, and the like. U.S. banks best weapon of choice has been direct bribery to top legislators, as documented extensively, for instance by a July 2010 Time Magazine article documenting $3.5 billion of bribery through professional bribers called lobbyist. This article is available with a search of **"Government for Sale: How Lobbyists Shaped the Financial Reform Bill".**

As Salessi documented in his blog, on June 15, 2010, the day the above Bill was announced by Senator Dodd, the main objective of this Bill was to decriminalize, and even legitimize, the creation of history's greatest ever financial crimes, namely the counterfeiting of over $1000 trillion (One QUADRILLION) dollars by the American counterfeiting industry, falsely named "Financial Industry", in the name of derivatives which had derived their values from non-existing underlying assets, and were thus counterfeits *ab initio*.

Salessi also provided links to testimony of government insiders, like Jack McLamb, who proved that the BP oil explosion had been self-inflicted, and further claimed that the disaster must have been fabricated to refract attention from the crimes which were taking place in the fabrication of the above Bill. The U.S. Treasury's officially announced figure of counterfeit monetary instruments (falsely termed derivatives) was $700 trillion, amounting to over 100 times the value of the entire American real estate.

Having decriminalized this historic crime, the U.S. Government's affiliated agencies, permitted the counterfeiters to steal every piece of real estate in this country from purported borrowers, and by any possible means. To make sure this pathological crime continues, the decriminalized counterfeiters were illegally subsidized with at least $23 trillions of additional, real and counterfeit, funds to continue their criminal path of destruction and plunder of the average American family, by primarily the weapon of foreclosure, despite the fact that the American counterfeiters, not only had never paid a single dollar toward the purchase of any pieces of the American real estate, but also they had become insolvent due to their counterfeiting. Thus their bogus loans <u>should have been</u> wiped out just as the banks wiped out people's assets by going out of business.

To further the pain of the average American victim, the counterfeiters were paid again over three times the actual value of the American real estate, with the payments amounting to over $23 trillion (CT 2743). This was to support the colossal quadrillion counterfeit, as targeted by the July 2010 Bill, in order to continue the global plunder of economies, with a dollar which is now completely worthless, because of this colossal counterfeit. The value of a real dollar counterfeited at least 100 times, as in here, has become less than one cent, thus international markets, and all countries now have no choice but to totally dishonor U.S. dollars, in all its forms, owing to devaluation effects of this colossal counterfeit. Meantime, the U.S., having anticipated this global reaction against its counterfeit dollars, engineered the recent turmoil in Arab regions, as documented in reports of government insiders such as Reverend Lindsey Williams, and war Professor Alan Sabrosky, as linked on Salessi's blog's page: "**MUST KNOW EVENTS**". Therefore, repurchase of any American realty is doomed because of the bankrupting of the U.S. economy as a whole, and the U.S. Dollar in particular, as perceived and documented by Salessi in 2004, in his OSC case # 04CC11080 (CT 2824-2828).

As Salessi previously documented, a large part of the real money pumped into the above described counterfeiting operations was illicit drug money, mostly provided by "Wachovia Drug Cartel" (Wachovia) which have volunteered to be respondents in this appeal, despite the fact that they have failed to provide any viable connections with the underlying fraudulent loans.

Although Wachovia, and its purported buyer, Wells Fargo, have admitted to have laundered around ½ trillion of drug dollars in the past decade, the real number has been concealed. Therefore, in 2010 Salessi launched his Freedom of Information Act Request (**FOIA #2010-00617-F**) with the Office of the

Comptroller of Currency (OCC). After almost one year OCC provided Salessi with 1.3 Gigabytes of electronic financial data in response to the request. As recently documented in his (**RJN-4**) Request #1, Salessi's personal opinion from the analysis of this massive data is that the above drug funds were, not counted for, or that were fully concealed, in the thousands of pages of FOIA financial data provided to Salessi by OCC, which office is purportedly in charge of Wachovia/Wells Fargo laundered drug funds. Salessi further concluded that the Wells Fargo takeover of Wachovia must have been for the purpose of facilitating the clean, and successfully sanitized, laundering of the ½ trillion drug money from Wachovia into Wells Fargo.

Even further, pursuant to Salessi's personal knowledge of financial markets, and according to the development of events, Salessi's personal opinion is that the purchase of WOrld Savings Bank (WOSB) by Wachovia in 2007, and the assumption of its purported real-estate mortgages of over $100 billion (CT 945-947) were purely with drug money, and for the sole purpose of drug money laundering, thus rendering all its mortgages void as a matter of law (as elaborated in Salessi's consolidated briefs), and either forfeitable by the United States Government, or simply rendered null and void by the operation of law. Since there has been willful complicity of multiple U.S. affiliated federal agencies with the drug money laundry operations of Wachovia, and Wells Fargo, therefore, the complicit government agencies have excluded themselves as to any claims of forfeitures in their favors, and against Wachovia, and thus rendered any such outstanding mortgages avoidable by their mortgagors. Salessi believes the number of real properties under this category exceed three millions across the country, and that Wachovia Drug Cartel should be forced to publicly surrender the originals of the said mortgages (if they have any such

documents in their possession) to citizens groups, or to Grand Juries for complete destruction and forfeiture in favor of their mortgagors. Anything less amounts to legitimizing the investment of drug money into American real estate, and into U.S. circulation, as against the American family.

The order appealed from here was dated 11/24/2009. The order was not served to Salessi, thus he did not have notice of it. A few months later, namely on 3/17/2010, Wachovia and Wells Fargo signed a well-known confession to have laundered ½ trillion drug money. Three days later Wachovia, changed names to Wells Fargo, in all its visible branches and companies, and nearly one thousand registered entity names beginning with the word "Wachvia" went literally underground as of 3/20/2010, and have been illegally operating their illegal activities in their underground capacities, as if operating from caves and bunkers, and with the blessing of the same federal agencies which have facilitated, and or concealed, Wachovia's crimes and evaded to indict Wachovia's drug-lords.

The Notice of Appeal here was filed in May of 2010. However, Wachovia's purported lawyers in the related cases here, which lawyers Salessi believes are running their own autonomous organized crime foreclosure operations, through litigation and bribery, have until now actively failed to disclose the above significant drug related events and entities, and the fact that Wachovia has since 3/20/10 gone completely underground. Thus, their appearances in the related cases here have all amounted to massive frauds on courts, calling for nothing less than disbarment of the involved lawyers. California Bar has fully supported the crimes of the lawyers appearing in these related cases, by taking no actions against them, despite Salessi's substantial proofs of the attorneys' perjuries and forgeries, in the related cases here. However, Salessi believes

that this court can independently evaluate and discipline attorneys according to proof. Anything less would give further support to their ongoing crimes.

Other independent proofs that government authorities have been complicit in these historic economic crimes are such things as the recent documentary called "**INSIDE JOBE**", and the numerous purported "**CONSENT ORDERS**" as linked on Appellant's blog (see **RJN-4**), documenting the admittance of all the major banks to their criminal conducts, while failing to take any actions against them on the basis of the crimes. In fact the foreclosure crimes of banks have escalated in the past six months. For instance, inside the central courthouse of Orange County, at least 1000 pieces of real estate are stolen every week, under the pretext of foreclosures, right under the floor of the Court offices of Orange County District Attorney who purports to fight organized crimes, as in here, while in fact it gives full protection of such crimes. Thus the nationwide law enforcement actions seem to be further pretexts to accelerate theft of property.

STANDARD OF REVIEW:

We review the trial court's factual findings regarding the existence and character of the parties' property under the substantial evidence standard. The trial court's selection of what legal principles to apply is subject to de novo review. (Bono v. Clark (2002) 103 Cal.App.4th 1409, 1421, 128 Cal.Rptr.2d 31.) This includes the choice of the applicable standard of proof, which is a question of law that we review de novo. (See In re Marriage of Weaver (1990) 224 Cal.App.3d 478, 488–489, 273 Cal.Rptr. 696.), as cited by: *In re Marriage of Ettefagh* 150 Cal.App.4th 1578, 59 Cal.Rptr.3d 419.

DISCUSSION:

Where a party is denied a fair hearing because of the misconduct of the court, the matter is reversible per se. (9 Witkin, Cal. Procedure, § 449, p. 497; *Fewel v. Fewel* (1943) 23 Cal.2d 431, 433, 144 P.2d 592.) Because Judge Monroe lacked the power to rule on Appellant's motions for: challenge against the judge; for preliminary injunction; and all the other motions which followed, his actions in proceedings with the hearings on all motions constituted serial denials of fair hearings, which is reversible per se on review. (2 Witkin, Cal. Procedure, Jurisdiction, §§ 293-294, p. 864.), citing from *(Christie v. City of El Centro, (2006) 135 Cal.App.4th at p. 776, 37 Cal.Rptr.3d 718.).*

Although in a normal situation pursuant to the following statutes and precedents the expungement order of a lis pedense is not subject to attack on appeal, these rules do not apply to the instant appeal.

Code of Civil Procedure section 405.39 provides the exclusive means for obtaining appellate review of an order granting or denying a motion to expunge a lis pendens. (*Howard S. Wright Construction Co. v. Superior Court* (2003) 106 Cal.App.4th 314, 318.) Section 405.39 allows a party aggrieved by an order made on a motion to expunge a lis pendens to file a petition for writ of mandate within 20 days of service of the written order. A failure to do so precludes any consideration of a petition for mandate. (*California-Hawaii Development, Inc. v. Superior Court* (1980) 102 Cal.App.3d 293, 296.) It also precludes any review by an appellate court in a subsequent appeal. (*Miller v. R. K. A. Management Corp.* (1979) 99 Cal.App.3d 460, 468-469.)

The above rules seem identical to those governing the appealability of judicial challenges, possible only after denial of a writ of mandate, and only

based on due process grounds. However, the law recognizes exceptions to Section 904.1. See Day v. Papadakis (1991) 231 Cal. App. 3d 503, 508, One of these exceptions is that a direct appeal may be taken from a void order. Mitchell v. Superior Court (1972) 28 Cal. App. 3d 759, 765. See also *Lakin v. Watkins Associated Industries* (1993) 6 Cal.4th 644 , 25 Cal.Rptr.2d 109; 863 P.2d 179. Appellant Salessi contends that the underlying order of the trial court was a void order, pursuant to numerous reasons discussed herein.

The situation is clearly at variance with a regular Lis Pendens case in that with the 11/24/09 hearing Wachovia pulled a stunt to expunge not only the Lis Pendens, but also two publicly recorded documents of title recorded as "**Notice of Intent to Preseve Interest**", under the Marketable Record Title Act, enacted in 1986. Assuming arguendo, that the trial court had jurisdiction to conduct such a hearing, it was not entitled to consider, or rule on, the expungement of the above Notices of Intent. Pursuant to the Marketable Record Title Act, as to Preservation of Interest by Notice, it states in part: "...However, recordation does create a presumption affecting the burden of proof that the person claiming the interest has not abandoned it and does not intend to do so. (C.C. 880.310(b); see *Walton v. Red Bluff* (1991) 2 C.A.4th 117, 130, 131, 132, 134, 3 C.R.2d 275 [compliance with recording requirement is not element of cause of action; lack of compliance is affirmative defense].)

Further, this court has jurisdiction to reverse the underlying order as void, pursuant to the court's absence of jurisdiction since appeals had already been taken resulting in the related consolidated appeals in this court. The filing of the appeal triggered the automatic appellate stay mandated by Code of Civil Procedure Section 916. Under Section 916, the filing of an appeal automatically stays all trial court proceedings "embraced" in or "affected" by an appealed

order. The automatic stay extends to any proceedings that would (i) directly or indirectly enforce the appealed order, or (ii) potentially lead to results inconsistent with a possible outcome of the appeal. Proceedings in contravention of the automatic stay are jurisdictionally void. (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal. 4th 180).

In addition to the above restrictions absolving the trial court of jurisdiction, the court's proceedings had been stayed, pursuant to 11 USC §362, by Appellant's voluntary bankruptcy filing on 4/28/9, upon which Wachovia had received multiple notices, from many directions, even though the said NOTICE was first filed in the underlying court, on 10/29/09, it was still one month before the underlying appealed from hearing, thus independently applying the automatic stay. Notice of Bankruptcy Stay had even been filed in the related consolidated appeals, around May 2009, where the lawyers in this case eventually filed objections to the bankruptcy stay and the appellate process resumed. In the underlying motion the lawyers first falsely claimed that Salessi had not filed any Notice of Bankruptcy Stay, but then during the hearing, once confronted with the Notice, changed their argument that Salessi has no ownership interest in the subject property, because a few months earlier (August 2009) the lawyers had paid off the office of Orange County Sheriff to execute a fraudulently obtained writ of possession, with which the lawyers, and/or the drug cartel, stole Salessi's house by resorting to armed robbery, as their modus operandi signature crime.

Alternatively, even if there were any doubt that Section 916, or 11 USC 362, stayed further orders adverse to Salessi, the Court should have exercised its inherent discretion to abstain from issuing such orders. The trial court has the inherent power to stay trial court proceedings to ensure the efficient and

orderly adjudication of claims. (*Walker v. Superior Court* (1991) 53 Cal. 3d 257, 266.) This includes the inherent power to stay trial court proceedings pending the resolution of an appeal. (*Freiberg v. City of Mission Viejo* (1995) 33 Cal. App. 4th 1484,1489

It is also notable that both Judge Monroe, and Wachovia had at numerous times expressed that the trial court had no further jurisdiction, owing to pending appeals, and pursuant to inter alia CCP §916. Examples of this are provided at: (CT 2502 ¶1); (CT 2514); (CT 2791). Salessi's elaborate arguments against the fraudulent expungement motion begins at (CT 2790) where Salessi substantially discussed trial court's lack of jurisdiction in many ways, and even apprising the court of the legal ramifications of its unwarranted interference with Appellant's property interests (CT 2799-2801), however, all of this was to no avail since the trial court danced to the tunes of Wachovia, and according to their pleasure, while taking pleasure in Appellant's plight. The court's attitude had probably further deteriorated to Appellant's prejudice, since the judge had been served with Salessi's Federal Action **SACV 08-01274 DOC (MLGx)**, around June 2009. This action alone divested the court of jurisdiction.

A Request For Admissions (RFA) filed 9/15/08, in advance of G038002 Oral Argument evidenced substantive uncontested matters admitted to by Wachovia, as evidenced in (CT 1332-1338). This RFA was by itself acted as uncontested, and powerful, Motion for Summary Judgment against Wachovia. However, because of the predisposition of the trial court towards defendants, Appellant's due process was totally denied.

WHAT IS THE STATE OF THE MONROE COURT?

As evidenced in "Plaintiff Salessi's Third Challenge For Cause" dated 1/12/09 beginning at (CT 2336), Appellant documented Judge Monroe's declaration in open court as to himself being a "**NUTCASE**" (CT 2339 L 16). This unprecedented statement of the judge against himself in open court perplexed everyone, including his court staff. Judge Monroe never contested this judicial admission when Appellant brought the 3rd Challenge for Cause, thus the judge has waived its denial. A Google search for "**Definition of NUTCASE**" returns at least the following meanings by the corresponding web-links below:

- **crazy: someone deranged and possibly dangerous**
  wordnetweb.princeton.edu/perl/webwn
- **Nutcase is pejorative slang for a person displaying insane, lunatic or eccentric human behaviour.**
  en.wikipedia.org/wiki/Nutcase
- **An eccentric or odd person; Someone who is insane**
  en.wiktionary.org/wiki/nutcase

Although at a first glance a reader may get the impression that the judge was declaring his own state of mind, a closer look at Appellant's documentation of the court's systemic prejudicial misconducts, proves that Judge Monroe "NUTCASE" statement may have been a false façade to justify the very calculated misconducts of the court which can only be done intentionally, in very calculated ways, as opposed to erratically, expected of a truly nutcase behavior. However, whether the "NUTCASE" statement was meant to be a decoy, or an

actual declaration of state of mind, it pertains to serious warnings of prejudice against disfavored litigants in the Monroe Court.

The above "NUTCASE" statement stands out as total lack of due process against any disfavored litigants in the Monroe Court. On this basis alone, Salessi requests this review court to make a determination as to the judicial fitness of the Monroe Court to conduct any judicial proceedings in general, in addition to finding its judicial proceedings in the underlying case void *ab initio.*

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CONCLUSION:

As previously documented in the related consolidated appeals, trial court had erred in striking multiple disqualification challenges, while answering and striking two of them, as the challenged judge had no discretion to rule on his own disqualification question, but to pass it on to another judge to rule on. Judge Monroe erred to do so, while having taken an ownership interest in the case ab initio. The judge was not assigned the case for all purposes, upon the first challenge on 7/8/08, or anytime thereafter, and was automatically peremptorily disqualified per ***CCP §170.6,*** or in the alternative, per ***CCP §170.1*** for cause. Furthermore, before the underlying expungement motion, the trial court had expressly declared its want of jurisdictions owing to appeals already taken. In addition, the court and parties had notice of Appellant's bankruptcy stay, thus creating a double want of jurisdiction to hold the 11/24/09 hearing.

Furthermore, a trial court which expressly warns its litigants as to its potential improprieties, due to its own potentially dangerous state of mind should not be allowed to hear disfavored litigants, or to act as a court. For all the forgoing reasons, all of the judge's orders and judgments entered, and not-entered, should be declared void *ab initio,* set aside and reversed by this review court.

Respectfully submitted.
Dated: May 16, 2011

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CERTIFICATE OF WORD COUNT:

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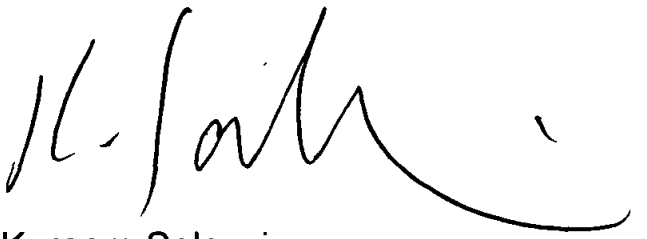
Dated, **5/16/2011**, 2011



Kareem Salessi,
Petitioner/Plaintiff

CERTIFICATE OF REALTED CASES

THE FOLLOWING CASES ARE RELATED TO THIS APPEAL:

-APPELLATE CASES: G040958; G041464 (SUBMITTED);

-APPELLATE CASES: 30-2009-00314155-CL-UD-CJC (ACTIVE);

-APPELLATE CASES: G38002; G040713 (CLOSED);

-SUPREME COURT CASE CASE: S166021 (CLOSED);

-BANKRUPTCY CHAPTER-11 case # 8:09-bk-13791-ES (ACTIVE);
-BANKRUPTCY CHAPTER-11 Appeal # SAV 09-01258 DOC (ACTIVE);
-BANKRUPTCY CHAPTER-11 case # 8:11-ap-01197-ES (ACTIVE);

-Salessi v. Commonwealth Title, et al. (2009 WL 3873625) SAV 08-01274 DOC (MLGx)-(Central District of California, Santa Ana Division) (stayed)

-JAMS Arbitration Case #1200040438 (Pending Order to Resume)

CERTIFICATE OF INTERESTED PERSONS:

SIMILAR TO THE INDIVIDUALS & ENTITIES IN THE CONSOLIDATED CASES # G040958, AND # G041464, WHICH IS UNDER SUBMISSION IN THIS COURT.

PROOF OF SERVICE BY MAIL RE:

OSC CASE # 30-2008-00107531

Appellate Case # G043669

I, declare:

I am NOT a party to this action. **My business address is:**

On 5/16/**2011**, I deposited in the United States mail at SANTA ANA, California a copy (or original as the Code requires) of the following document(s): **APPELLANT'S OPENING BRIEF ON THE MERITS;**

ADDRESSED TO:

Mr. Mark FLewelling, esq. AFRCT 199 S. LOS ROBLES AVE. SUITE 600, PASADENA, CA. 91101 Tel: 626- 535 1900; Fax: 626- 5777764 Councel for World Savings/Wachovia	Mr. BRIAN P. STEWART, esq. 428 OLD NEWPORT BLVD. NEWPORT BEACH, CA. 92663 TEL:949-515 0807; FAX:949- 574 0848; Fidelity National Agency Sales & Posting
Office of California Attorney General 300 S Spring St Ste 1720 Los Angeles, CA 90013;	Office of the Orange County District Attorney; 401 Civic Center Drive West, Santa Ana, Ca. 92701
CALIFORNIA SUPREME COURT 300 SOUTH SPRING St. 2nd FLOOR, LOS ANGELES, CA. 90013	U.S. TRUSTEE 411 W. Fourth St Suite 9041 *Santa Ana, CA* 92701; (714) 338-3400,
Central Justice Center 700 Civic Center Drive, West Santa Ana, Ca. 92701	

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5/16/2011, in Orange County, California.