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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA-SACRAMENTO DIVISION

GREGG A. STANFORD,

Plaintiffs

vs.

OCWEN FEDERAL BANK, FSB, OCWEN
LOAN SERVICING, LLC; LASALLE
NATIONAL BANK, and DOES 1 through 20,
inclusive,

Defendants.

Case No.: 2:10-CV-01763-JAM-GGH

HON. JOHN A. MENDEZ

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANTS'
MOTION TO DISMISS FIRST
AMENDED COMPLAINT**

Complaint Filed: June 2, 2010
Trial Date: None

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ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on Wednesday, November 3, 2010 at 9:30 a.m. before
3 the above entitled Court, defendants Ocwen Loan Servicing, LLC, successor in interest to Ocwen
4 Federal Bank, FSB (“Ocwen”), and Bank of America, National Association as Successor by
5 Merger to LaSalle National Bank Association, as Trustee for the Certificateholders of the
6 Mortgage Pass-Through Certificates 1997-R2 (“BOANA” or “LaSalle”) (erroneously sued as
7 “Lasalle National Bank”) (collectively “Defendants”), brought upon regular noticed motion a
8 Motion to Dismiss Plaintiff Gregg A. Stanford (“Plaintiff”) First Amended Complaint (“FAC”).
9 Counsel for both Plaintiff and Defendants appeared at the hearing. District Court Judge John A.
10 Mendez presided over the hearing.
11

12
13 After considering the moving papers, Plaintiff’s written opposition, and Defendant’s
14 written reply, pleadings, the court file, any matters the Court took judicial notice of, and oral
15 argument on the record, the Court **ORDERS** as follows:

16 Defendants’ Motion to Dismiss Plaintiff’s First Amended Complaint is **GRANTED IN**
17 **PART AND DENIED IN PART** as follows:

- 18
- 19 1. The Motion to Dismiss Plaintiff’s first claim for Wrongful Foreclosure is
20 **GRANTED WITHOUT PREJUDICE**. Plaintiff has 20 days leave to amend this
21 claim.
 - 22 2. The Motion to Dismiss Plaintiff’s second claim for Breach of Written Contract is
23 **DENIED**.
- 24
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26 ORDER GRANTING IN PART AND DENYING IN PART
27 DEFENDANTS’ MOTION TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT

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- 3. The Motion to Dismiss Plaintiff’s third claim for Fraud is **GRANTED WITHOUT PREJUDICE**. Plaintiff has 20 days leave to amend this claim.
- 4. The Motion to Dismiss Plaintiff’s fourth claim for Intentional Infliction of Emotional Distress is **GRANTED WITH PREJUDICE**.
- 5. The Motion to Dismiss Plaintiff’s fifth claim for Negligence is **GRANTED WITH PREJUDICE**.
- 6. The Motion to Dismiss Plaintiff’s sixth claim for Quiet Title is **GRANTED WITHOUT PREJUDICE**. Plaintiff has 20 days leave to amend this claim.
- 7. The Motion to Dismiss Plaintiff’s seventh claim for Violation of Business & Professions Code Section 17200 is **GRANTED WITHOUT PREJUDICE**. Plaintiff has 20 days leave to amend this claim.

IT IS SO ORDERED.

DATED: November 5, 2010

/s/ John A. Mendez

HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE

ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS’ MOTION TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3760 Kilroy Airport Way, Suite 260, Long Beach, California 90806.

On November 5, 2010, I served the following document(s):

[PROPOSED] ORDER GRANTING IN PART AND DENYING INPART DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT

On the following interested parties in this action described as follows:

William L. Dunbar
Attorney at Law
1406 Blue Oaks Blvd., Ste. 150
Roseville, CA 95747
Ph: (916) 783-3900
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E-mail: dunbar@rcsis.com
Attorney for GREGG A. STANFORD

[X] BY ELECTRONIC MAIL: I transmitted the document(s) listed above electronically either by e-mail or by electronic filing through the CM/ECF System to the e-mail addresses listed above. I am readily familiar with Microsoft Outlook's e-mail system and the United States District Court's CM/ECF System, and the transmission was reported as complete without error.

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

Executed on November 5, 2010, in Long Beach, California.

/s/ Chris C. Chapman
Chris C. Chapman

ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT