

# EXHIBIT B

**CASE SUMMARY**  
**CASE NO. 2011-50286-367**

**Felipe De Jesus Soto and Maria G. Soto**  
**VS**  
**Wells Fargo Bank, NA**

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Location: **367th Judicial District Court**  
 Judicial Officer: **Barnes, Margaret E.**  
 Filed on: **05/02/2011**

CASE INFORMATION








Case Type: **Contract -**  
**Consumer/Commercial/Debt**  
 Subtype: **Fraud/Misrepresentation**

PARTY INFORMATION

<b>Plaintiff</b>	<b>Soto, Felipe De Jesus</b>	<i>Attorneys</i> <b>Girling, L Marc</b> <i>Retained</i> 817-268-5461(F) 817-268-0247(W) <i>1852 Norwood Plaza</i> <i>STE 105</i> <i>Hurst, TX 76054</i>
	<b>Soto, Maria G</b>	<b>Girling, L Marc</b> <i>Retained</i> 817-268-5461(F) 817-268-0247(W) <i>1852 Norwood Plaza</i> <i>STE 105</i> <i>Hurst, TX 76054</i>
<b>Defendant</b>	<b>Wells Fargo Bank, NA</b>	

DATE EVENTS & ORDERS OF THE COURT

**OTHER EVENTS AND HEARINGS**

- 05/02/2011 OCA Reporting: New suit  
*(This entry is made for statistical reporting purposes only and does not represent a document filed with the District Clerk.)*
- 05/02/2011  Plaintiff's Original Petition  
*and Application for Temporary Restraining Order and Temporary Injunction*
- 05/02/2011  Temporary Restraining Order (Judicial Officer: Barnes, Margaret E. )
- 05/02/2011  Affidavit  
*In Support of Temporary Restraining Order and Temporary Injunction*
- 05/02/2011 **Citation**  
 Wells Fargo Bank, NA  
Unserved  
*gave to attorney*
- 05/02/2011 **Temporary Restraining Order**  
 Wells Fargo Bank, NA  
Unserved  
*gave to attorney*
- 05/03/2011  Record/Copy Request
- 05/04/2011  Record/Copy Request
- 05/13/2011 **CANCELED Temporary Restraining Order Hearing (3:00 PM) (Judicial Officer: Gabriel, Lee)**  
*Set in person by Mark Girling on 5-2-2011 @ 1:16*



**CASE SUMMARY**  
**CASE NO. 2011-50286-367**

*Pass No Hearing Wanted At This Time*

DATE

FINANCIAL INFORMATION

<b>Plaintiff</b> Soto, Felipe De Jesus	
Total Charges	233.00
Total Payments and Credits	233.00
<b>Balance Due as of 5/24/2011</b>	<b>0.00</b>



CERTIFIED A TRUE AND CORRECT COPY  
OF THE ORIGINAL ON FILE IN MY OFFICE

SHERRI ADELSTEIN

DENTON COUNTY DISTRICT CLERK

5/24/11  
Date

By:

*[Handwritten Signature]*  
Deputy Clerk



CITATION

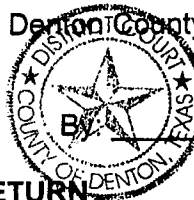
CAUSE NO. 2011-50286-367

To: Wells Fargo Bank, NA, by serving its registered agent Corporation Service Company dba CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218, (or wherever he or she may be found)

Notice to Defendant/Respondent: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Table with 2 columns: Field Name and Value. Fields include Court, Cause No., Date of Filing, Document, Parties in Suit, Clerk, and Party or Party's Attorney.

Issued under my hand and seal of Court at office in Denton, Denton County, Texas on this the 2nd day of May, 2011.



Handwritten signature of Charyn Welter, Deputy

OFFICER'S RETURN

Came to hand on the \_\_\_ day of \_\_\_, 20\_\_\_ at \_\_\_ M. and executed on the \_\_\_ day of \_\_\_, 20\_\_\_ at \_\_\_ M., by delivering to the within named \_\_\_ in person a true copy of this citation and Original Petition and Application for Temporary Restraining Order and Temporary Injunction; Temporary Restraining Order; Certificate of Cash in Lieu of Bond for Restraining Order &/or Injunction at

Service Fees: \$ \_\_\_\_\_ Sheriff/Constable

Service ID No. \_\_\_\_\_ County, Texas

By: \_\_\_\_\_ Deputy/Authorized Person

Verification (must be completed if served outside of the State of Texas)

On this day personally appeared \_\_\_ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated under oath: Upon penalty or perjury, I attest the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of 18 years and I am not a party to or interested in the outcome of this suit.

Subscribed and sworn to before me on this the \_\_\_ day of \_\_\_, 20\_\_\_.

Notary Public



TEMPORARY INJUNCTION/RESTRAINING ORDER (TRCP 687)

Cause No. 2011-50286-367

To: Wells Fargo Bank, NA, by serving its registered agent, Corporation Service Company dba CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

WHEREAS, Felipe De Jesus Soto; Maria G. Soto filed a(n) Original Petition and Application for Temporary Restraining Order and Temporary Injunction in the 367th Judicial District Court of Denton County, Texas, on May 02, 2011 in a suit numbered 2011-50286-367. Wherein, Felipe De Jesus Soto; Maria G. Soto; Wells Fargo Bank, NA are parties to the suit and Plaintiff(s) alleges as per attached copy of Original Petition and Application for Temporary Restraining Order and Temporary Injunction

Whereas, the said Felipe De Jesus Soto; Maria G. Soto has/have executed and filed with the clerk of said court a bond in the sum of \$ 500.00 made payable to the defendant and conditioned as required by law and the order of the judge.

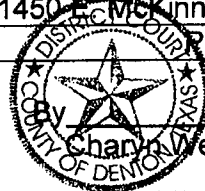
Upon presentation of said Petition/Application to him/her and consideration, thereof, the Honorable Judge, Margaret Barnes made the following order: Temporary Restraining Order.

You are hereby commanded to desist and refrain from as: per attached copy of Temporary Restraining Order and to appear before the Judge of said Court on May 13, 2011 at 3:00 p.m. in the Courtroom of the 367th Judicial District Court, at 1450 E. McKinney, 3rd floor, of the Courthouse of Denton County, in the City of Denton, Texas when and where you will appear to show cause why injunction/restraining order should not be granted upon such request effective until final decree/order in such suit.

Issued and given under my hand and seal of said Court, at office in Denton, Denton County, Texas on this the 2nd day of May, 2011.

Requested by:

Table with 2 columns: Requester info (L. Marc Girling, 1852 Norwood Drive, Hurst, Texas 76054) and Clerk info (Sherri Adelstein, Denton County District Clerk, 1450 E. McKinney, 1st Floor, Denton TX 76209, P O Box 2146, Denton TX 76202)



Handwritten signature of Charly Welter

OFFICER'S RETURN

Came to hand on the \_\_\_ day of \_\_\_, 20\_\_\_, at \_\_\_ M, and executed on the \_\_\_ day of \_\_\_, 20\_\_\_, at \_\_\_ M, by delivering to the within named \_\_\_ in person a true copy of the Original Petition and Application for Temporary Restraining Order and Temporary Injunction; Temporary Restraining Order; Certificate of Cash in Lieu of Bond for Restraining Order &/or Injunction at

SERVICE FEES \$ \_\_\_\_\_ Sheriff \_\_\_\_\_ County, Texas
Service I.D. \_\_\_\_\_ Deputy/Authorized Person

VERIFICATION

On this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit and have been authorized by the Denton County Courts to serve process for Denton County.

Subscribed and sworn to before me on this the \_\_\_ day of \_\_\_, 20\_\_\_.

Notary Public



CAUSE NO. 2011-50286-367

FELIPE DE JESUS SOTO  
and  
MARIA G. SOTO  
Plaintiffs,

v.

WELLS FARGO BANK, NA  
Defendant.

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IN THE DISTRICT COURT

367 JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

DENTON COUNTY  
2011 MAY -2 AM 1  
BANKRUPTCY COURT  
DENTON COUNTY, TEXAS

**ORIGINAL PETITION AND APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Plaintiffs, Felipe De Jesus Soto and Maria G. Soto, who file this Petition, in the interest of justice and fairness, for Wrongful Debt Collection Practices, Common Law Fraud, as well as Violations of Deceptive Trade Practices Act and Texas Commerce Code 3.301, and for a Declaratory Judgment as stated herein. Plaintiffs ask this Honorable Court to grant the Application for Temporary Restraining Order against Wells Fargo Bank, NA to prevent Defendant from conducting the Substitute Trustee's Sale scheduled for Tuesday, May 3, 2011, and from otherwise selling or taking possession of the property subject of this litigation, which is incorporated by reference and fully set forth at length herein, during the pendency of this cause, and from otherwise disturbing or attempting to disturb Plaintiffs' peaceable possession and enjoyment of their property, and in support show the Court the following:

### **DISCOVERY CONTROL PLAN LEVEL**

1. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Plaintiffs intend to conduct discovery in this case under Level 3.

### **PARTIES AND SERVICE**

2. Plaintiffs, Felipe De Jesus Soto and Maria G. Soto, are the individuals whose mailing address is 2012 Rose Hill Road, Carrollton, Texas 75007. The last three digits of Felipe De Jesus Soto's social security number are 241, and the last four digits of his Driver's license are 423. The last three digits of Maria G. Soto's social security number are 373, and the last four digits of her Driver's license are 553.
3. Defendant, Wells Fargo Bank, NA, (herein, "Wells Fargo") is a Foreign Corporate Fiduciary, who may be served by and through its registered agent, Corporation Service Company dba CSC – Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218. Service of the said Defendant as described above can be affected by Personal Service or Certified Mail Return Receipt Requested.

### **JURISDICTION AND VENUE**

4. The subject matter in controversy is within the jurisdictional limits of this Court.
5. This Court has personal jurisdiction because the property which is the subject of this litigation is located in Texas and Defendants are doing business within this state.
6. Venue in this cause is proper in Denton County, Texas pursuant to Section 17.56 of the Texas Business and Commerce Code and under Section 15.001 of the Texas Civil Practice



and Remedies Code because this action involves real property, and the property is located in Denton County, Texas.

### FACTS

7. Plaintiffs are the record owner of the property located at 2012 Rose Hill Road, Carrollton, Texas 75007 more specifically described as:

LOT 7, BLOCK 16 OF WOODLAKE NO.3, SECOND SECTION, AN ADDITION TO THE CITY OF CARROLLTON, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9, PAGE 12, MAP RECORDS OF DENTON COUNTY, TEXAS.

8. Plaintiffs allegedly signed a Promissory Note in order to purchase the property located at, 2012 Rose Hill Road, Carrollton, Texas 75007, on April 19, 2005. The copies of the Promissory Note show "Franklin American Mortgage Company" as the lender.

9. Plaintiffs' attorney has requested from Wells Fargo, the purported holder of the note, to view a number of these documents including the Deed of Trust and the Original Note. Plaintiffs' attorney also requested that Defendant make the *original* signed promissory note available for viewing. These requests were made in order to verify the Defendant is in fact entitled to enforce the note as required by Texas law. *See*, Tex. Bus. & Comm. Code § 3.301.

10. Defendant has yet to produce such documents. It is the Plaintiffs' belief the Defendant does not have the authority to foreclose on the property and are in fact not the actual holders of the original note. The Plaintiffs contend that without possession of the original signed note,

Defendant does not have the authority to collect. *Petitioners aver only Franklin American Mortgage Co. has standing and authority to enforce the note.*

11. After requesting an opportunity to view the original note, Defendant has not made the note available for viewing. Plaintiffs allege that the Defendant does not, in fact, have the original note, and therefore, they cannot prove they are the actual holder of the note.

12. Defendant offered to modify Plaintiffs' loan. Plaintiffs accepted Defendant's offer and submitted a mortgage modification application in mid-February. Plaintiffs' qualify under the federal Home Affordable Modification Program's 31 percent rule, wherein the Plaintiffs' mortgage payment is less than 31% of their gross income. Despite qualifying for the program and providing Defendant all of the documentation required, Defendant refuses to provide Plaintiffs' an underwriting decision on their loan modification application.
13. Plaintiffs' submission of the loan modification application has cost Plaintiffs' a significant sum of money. The money Plaintiffs spent could have gone towards their arrearages. In addition, Defendant's promise of a loan modification conditioned upon Plaintiffs' qualification has resulted in Plaintiffs becoming so delinquent Plaintiffs have no lost any opportunity of refinancing their mortgage through another lender.
14. Throughout the loan modification application process, Defendant has demanded the same documentation from Plaintiffs despite having received several copies of the same. Defendant has denied receiving said documentation or has suggested the documentation was lost. Defendant has also refused to assign one employee to address Plaintiffs' loan modification application, resulting in ongoing communication issues and processing failures.
15. Plaintiffs allege Defendant's actions were intentional and designed to increase Plaintiffs' outstanding and compounding interest charges and late fees. Plaintiffs further allege Defendants induced Plaintiffs to apply for the loan modification with no intention of granting a mortgage modification; Defendant's actual objective was to capture as much of the Plaintiffs' equity upon foreclosing on Plaintiffs' homestead property.
16. Plaintiffs' attorney has requested the Defendant to pull the pending substitute trustee's sale until the debt is validated and the true holder of the note is known. The Defendant has failed

to do so and in fact intends to pursue this collection action by executing the substitute trustee's sale on May 3, 2011 at the courtyard area of the southwest corner of the Denton County Courts Building, or as designated by the County Commissioners.

### **WRONGFUL DEBT COLLECTION PRACTICES**

17. Defendant is attempting to collect on a note without the ability to prove Defendant is in fact the holder of the note. Defendant has engaged in actions to collect on such notes. Defendant has failed to validate the debt after written requests by Plaintiffs and by Plaintiffs' counsel. These actions are illegal under the Texas Finance Code.
18. Additionally, Defendant's collection proceedings are in violation of Texas Finance Code Sections 392.301, since Defendant has no authority to collect on either of the notes or hold a substitute trustee's sale.
19. All alleged transfers, assignments, and misstatements of facts regarding the Note by Defendant, and the failure of Defendant to stop foreclosure, constitute violations of the Texas Finance Code.
20. Defendant and its representatives have used prohibited debt collection methods in violation of the Texas Finance Code. Defendant has threatened to foreclose on Plaintiffs' residence. This was coercive and threatening. This conduct was abusive and harassing. Such acts were an unconscionable and unfair means to collect the debt allegedly owed.
21. These actions are thereby fraudulent, deceptive, and/or misleading representations actionable under the Texas Finance Code Sections 392.303 and 392.304, the Texas Debt Collection Act ("TDCA"). Said statute is a "tie in" to the Deceptive Trade Practices Act ("DTPA"), and since the actions were made willingly and intentionally, Plaintiffs seek treble damages under the DTPA, as well as damages for mental anguish.

## COMMON LAW FRAUD

22. The elements of fraud are: (1) that a material representation was made; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party thereby suffered injury. *In re: Firstmerit Bank*, 52 S.W.3d 749 (Tex. 2001); *Formosa Plastics Corp. v. Presidio Engrs. & Contractors, Inc.*, 960 S.W.2d 41, 47 (Tex.1998).
23. Defendant represented to Plaintiffs that if Plaintiffs applied for a loan modification and qualified under HAMP's 31% rule, the Defendant would review the application, determine if the application was complete, and further determine if the Plaintiffs qualified under the 31% rule. Defendant further represented they would be required under federal law to accept the Plaintiff's loan modification application, thereby resolving Plaintiffs' delinquency issues. Defendant also represented to Plaintiffs that Defendant need not make payments towards their existing mortgage because Defendant would not foreclose on Plaintiffs' home while a loan modification application was active and that Plaintiffs would be approved for a modification. These representations were false in that Defendant stated they would complete the underwriting process and would not foreclose on Plaintiff's home. In fact, Defendant never completed the underwriting process despite having nearly four months since the submission of this petition to make such a decision. In addition, Defendant is now attempting to foreclose on Plaintiffs' homestead property. The Defendant's representations were reckless or made without knowledge of the truth because the speaker knew or should have known their employer fails to provide underwriting decisions for all of the loan
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modification applications it receives. The Defendant's employees made said representations intending to induce Plaintiffs to complete a loan modification application and to make no further mortgage payments until Plaintiffs received an underwriting decision from Defendant. Plaintiffs acted in reliance on Defendant's representations in that Plaintiffs spent a significant amount of time applying for the loan modifications, spending money on third parties for the purpose of completing the applications when the money could have gone towards Plaintiffs' mortgage, or not making payments on their mortgage as directed by Defendant's employees. Because Defendants have initiated a non-judicial foreclosure on Plaintiffs' home, Plaintiffs have been injured in that they have spent significant sums of money on loan modification applications and have had to hire an attorney for the purpose of preventing an unlawful foreclosure and to seek damages for Defendant's other unlawful acts.

### **VIOLATIONS OF DECEPTIVE TRADE PRACTICES ACT**

24. The Deceptive Trade Practices Act ("DTPA") provides, in pertinent part: (a) A consumer may maintain an action where any of the following constitute a producing cause of actual damages: (3) any unconscionable action or course of action by any person... TEX.BUS. & COM.CODE ANN. § 17.50(a)(3) (Vernon 1987).
25. Under the DTPA, a consumer is "an individual, partnership, corporation, who seeks or acquires by purchase or lease, any goods or services..." therefore Plaintiffs are consumers for DTPA purposes.
26. A service was provided by Wells Fargo. Wells Fargo alleges it "serviced" the loans in the Notice of Substitute Trustee Sale sent to Plaintiffs.. Defendant provided services to the Plaintiffs under the definition of services in the DTPA. See also *Canfield v. Bank One*, 51

S.W.3d 828, 838 (Tex.App.—Texarkana 2001, pet. denied) (wherein “services” is an action or use that furthers some end or purpose).

27. Unconscionability is an act or practice that, to a consumer’s detriment, takes advantage of the consumer’s lack of knowledge, ability, experience or capacity to a grossly unfair degree. Tex. Bus. & Com. Code § 17.45(5); *Latham v. Castillo*, 972 SW2d 66, 68 (Tex. 1998).
28. Defendant threatened to foreclose on Plaintiffs’ home. Defendant is unable to prove it has the ability to enforce the note. Defendant took advantage of Plaintiffs’ lack of knowledge of who the holder of the note was to a grossly unfair degree.
29. After Plaintiffs fell behind on the mortgage payments, Defendant conditionally offered a loan repayment agreement with no intention of finalizing such a loan repayment agreement. Defendant then stalled the loan repayment application process by making on-going requests for documentation from the Plaintiffs; many of these requests were duplicative and unnecessary. Plaintiffs allege these on-going requests for documentation were a pretext for delaying, and the Defendant’s actual purpose in delaying was to acquire Plaintiffs’ equity in said property by spooling up the Plaintiffs’ arrearages to an unmanageable balance only to use this arrearage balance as one of the justifications to deny Plaintiffs a mortgage repayment plan. Defendant took advantage of Plaintiffs’ inexperience with dealing with financial institutions to a grossly unfair degree.
30. Fees and payments were not properly credited to the loan’s principal balance. The arrears were miscalculated. Defendant took advantage of Plaintiffs’ lack of knowledge of what the principal balance of the note was, to a grossly unfair degree.
31. These courses of action are unconscionable.

### **REQUEST FOR DECLARATORY JUDGMENT**

32. Plaintiffs request the court declare any attempt to foreclose pursuant to the Texas Property Code Section 51.001 et seq. is an action to collect a debt and therefore the Defendant must produce the one and only Original Promissory Note signed by the Plaintiffs for inspection by the Plaintiffs or their document examiner prior to proceeding with any foreclosure proceedings. Plaintiffs request the Court declare Wells Fargo must produce the original notes prior to any action to enforce the notes.
33. Plaintiffs request that the Court declare Wells Fargo has acted unconscionably towards Plaintiff.
34. Plaintiffs request that the Court declare that Wells Fargo conduct constitutes fraud, negligence and intentional misrepresentation.

### **APPLICATION FOR TEMPORARY RESTRAINING ORDER**

35. After knowledge of a possible sale, attorney for Plaintiffs has requested Defendant produce certified copies of any and all transfer documents showing all of the transfers and assignments of the Original Deed of Trust, as well as the Original Notes. Such documentation has not yet been provided to Plaintiffs' attorney.
36. Unless this Honorable Court immediately restrains the Defendant Wells Fargo from executing a Substitute Trustee's Sale or otherwise selling or taking possession of the subject property during the pendency of this cause, or from otherwise disturbing or attempting to disturb Plaintiffs' peaceable possession and enjoyment of the property, Plaintiffs will suffer immediate and irreparable injury, for which there is no adequate remedy at law to give

Plaintiffs complete, final and equal relief. More specifically, Plaintiffs will show unto the court the following:

- a. The harm to Plaintiffs is imminent because Plaintiffs will lose their property.
- b. There is no adequate remedy at law which will give Plaintiffs complete, final and equal relief if the Temporary Restraining Order is not granted and any transfer of the property is allowed to take place.
- c. Plaintiffs are willing to post a reasonable temporary restraining order bond, and hereby request this Honorable Court to set such bond at a reasonable amount.
- d. Plaintiffs have met the burden by establishing each element which must be present before injunctive relief can be granted by this court, therefore Plaintiffs are entitled to the requested temporary restraining order.

37. Plaintiffs request this Honorable Court to restrain Wells Fargo from executing the Substitute Trustee's Sale scheduled for Tuesday, May 3, 2011 or selling or otherwise taking possession of the subject property during the pendency of this cause, or from otherwise disturbing or attempting to disturb Plaintiffs' peaceable possession and enjoyment of the property.

38. Plaintiffs are likely to succeed on the merits of this lawsuit.

#### **ATTORNEY'S FEES**

39. Plaintiffs have retained Girling Law to represent the Plaintiffs in this action and have agreed to pay the firm reasonable and necessary attorney's fees. An award of reasonable and necessary attorney's fees to the Plaintiffs would be equitable and just and therefore authorized by Section 37.009 of the Civil Practice and Remedies Code.



**PRAYER FOR RELIEF**

**WHEREFORE PREMISES CONSIDERED, PLAINTIFFS RESPECTFULLY REQUEST:**

40. This Petition be filed and a day be appointed for a hearing on this matter;
41. Notice of the filing of this Petition and the hearing date be given to all parties;
42. A temporary restraining order will issue, restraining Defendant, Wells Fargo, Defendant's officers, agents, servants, employees, and assigns, constables, sheriffs, Justices of the Peace, and attorneys from directly or indirectly from executing a Substitute Trustee's Sale or otherwise selling or taking possession of the subject property during the pendency of this cause, or from otherwise disturbing or attempting to disturb Plaintiffs' peaceable possession and enjoyment of the property;
43. The Court set a reasonable bond for the temporary restraining order;
44. After notice and hearing, any and all Substitute Trustee's Sale on the above-specified property will be set aside and a temporary injunction will issue enjoining and restraining Defendant, Defendant's officers, agents, servants, employees, successors and assigns, constables, sheriffs, Justices of the Peace, and attorneys from taking or selling in any fashion, or taking possession of the subject property during the pendency of this cause, or from otherwise disturbing or attempting to disturb Plaintiffs' peaceable possession enjoyment of the property;
45. After trial on the merits, the Court permanently enjoin Defendant, Defendants' officers, agents, servants, employees, successors and assigns, constables, sheriffs, Justices of the Peace, and attorneys from directly or indirectly from taking possession of the subject property or from otherwise disturbing or attempting to disturb Plaintiffs' peaceable

possession enjoyment of the property.

46. Economic Damages;

47. Punitive Damages;

48. A declaration the Defendant must produce the one and only Original Promissory Note signed by the Plaintiffs for inspection by the Plaintiffs and or their document examiner prior to proceeding with any foreclosure proceedings;

49. Treble damages and damages for mental anguish under the Deceptive Trade Practices Act;

50. Equitable Relief;

51. Reasonable attorney's fees;

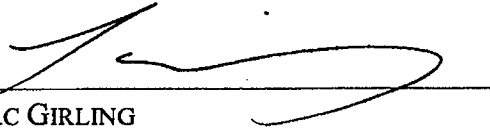
52. Costs of Court; and

53. All other relief to which Plaintiffs are entitled;

54. Plaintiffs pray for general relief.

Respectfully submitted

**GIRLING LAW**  
1852 Norwood Drive  
Suite 105  
Hurst, TX 76054

By:   
L. MARC GIRLING  
Texas Bar No. 24074283

**ATTORNEY FOR PLAINTIFFS**


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**CERTIFICATES OF CONFERENCE**

I certify that on April 29, 2011, I conferred with the Defendant Wells Fargo Bank, NA. by and through their representative, Ryan Burgeois at Barrett, Daffin, Turner, et al., at 3:21, p.m.:

- I conferred with opposing counsel of Wells Fargo Bank, NA to discuss reasonable means to resolve this dispute prior to filing the Petition.
- I conferred on with opposing counsel for Wells Fargo Bank, NA regarding the merits of the relief sought by Plaintiffs.
- Wells Fargo Bank, NA is represented by Counsel.
- Opposing Counsel **does not** wish to be heard at the time the Temporary Restraining is presented to the Judge for signature.
- After making several attempts to reach opposing counsel, I left a detailed voice mail in which I explained my intent to file this petition and application for Temporary Restraining Order, the basis of my client's complaints, my contact information, and a request for a return call if there was any means of avoiding litigation. I have since received no response from opposing counsel.

Plaintiffs notified Defendant Wells Fargo Bank, NA through their counsel via facsimile to 972 661-7711 of the Original Petition and Application for Temporary Restraining Order and Temporary Injunction having been filed.

  
\_\_\_\_\_  
L. Marc Girling

CAUSE NO. 2011-50286-367

FELIPE DE JESUS SOTO  
and  
MARIA G. SOTO  
Plaintiffs,

V.

WELLS FARGO BANK, NA  
Defendants.

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IN THE DISTRICT COURT

367 JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

FILED  
2011 MAY 2 AM 2:32  
SHARON L. BERRY  
CLERK  
DEPUTY

**TEMPORARY RESTRAINING ORDER**

On 5/2/11 the Application for a Temporary Restraining Order by Felipe de Jesus Soto and Maria G. Soto, Plaintiffs herein, was heard before this Court.

- 1. The subject property of this litigation is located at 2012 Rose Hill Road, Carrollton, Texas 75007 more specifically described as:

LOT 7, BLOCK 16 OF WOODLAKE NO.3, SECOND SECTION, AN ADDITION TO THE CITY OF CARROLLTON, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 9, PAGE 12, MAP RECORDS OF DENTON COUNTY, TEXAS.

Based upon the pleadings, records, documents filed by counsel, and the arguments of counsel at the hearing, **IT CLEARLY APPEARS:**

- A. That unless Defendant, Wells Fargo Bank, NA (herein "Wells Fargo"), Defendant's officers, agents, servants, employees, successors and assigns, constables, sheriffs, Justices of the Peace, and attorneys are immediately restrained, directly or indirectly, from taking, leasing, encumbering, selling, taking possession of, altering, or destroying the subject property during the pendency of this cause, reporting the subject property for any other sale, or

otherwise disturbing or attempting to disturb Plaintiffs' peaceable possession and enjoyment of the property, that Defendant will commit the foregoing before notice and a hearing on Plaintiffs' Application for a Temporary Injunction.

B. Plaintiffs will suffer irreparable harm if Defendant, Defendant's officers, agents, servants, employees, successors and assigns, and attorneys are not immediately restrained from taking, leasing, encumbering, selling, taking possession of, altering, or destroying the subject property during the pendency of this cause, reporting the subject property for any other sale, or otherwise disturbing or attempting to disturb Plaintiff's peaceable possession and enjoyment of the subject property, and there is no adequate remedy at law to grant Plaintiff complete and final relief.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Defendant, Defendant's officers, agents, servants, employees, successors and assigns, and attorneys are immediately restrained from taking, leasing, encumbering, selling, taking possession of, altering, or destroying the subject property, reporting the subject property for any other sale, or otherwise disturbing or attempting to disturb Plaintiff's peaceable possession and enjoyment of the subject property during the pendency of this cause.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that Plaintiffs' Application for Temporary Injunction be heard on May 13, 2011 at 3:00 P.M in the 36<sup>th</sup> Judicial District Court of Denton County. Defendant, Wells Fargo, is ordered to appear at that time and show cause, if any exist, why a temporary injunction should not be issued against said Defendant.

The Clerk of the Court shall issue a temporary restraining order in conformity with the law and the terms of this order upon the filing by Plaintiffs of the bond hereinafter set.

This Order shall not be effective until Plaintiffs deposit with the Clerk, a bond in the amount of \$ 500,000 in conformity with the law. Such bond may be paid with a law firm check to the Clerk, and the Clerk shall accept said law firm check for the bond.

Once effective, this Temporary Restraining Order will expire on the above-referenced date and time set for the Hearing on Plaintiffs' Application for Temporary Injunction.

By this Order, the Court orders the Clerk to issue notice to Defendant, Wells Fargo, that the hearing on Plaintiffs' Application for Temporary Injunction is set, and the purpose of the hearing shall be to determine whether this temporary restraining order should be made a temporary injunction pending a full trial on the merits.

SIGNED and ENTERED on 5/02/2011 at 1:05 PM PM.

  
JUDGE PRESIDING







DENTON COUNTY DISTRICT CLERK

DOCUMENT RECORDS REQUEST FORM

Requests for copies from case files are retained by this office and filed in the requested case. This form will be available for public viewing in the same manner as the case records.

2011 MAY -4 PM 1:13  
SHERI ADELL  
DISTRICT CLERK  
DEPUTY

Requestor: CNS

Request Date: 5-4-11

<u>Cause Number</u>	<u>Party Name(s)</u>	<u>Documents(and dates)</u>	<u>Certify?</u>	<u>Pg</u>
<u>2011-50286367</u>	<u>Felipe Soto</u>	<u>pt. 5/2</u>	<u>no</u>	<u>12</u>
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