

A

3. Party Requesting Jury: None.
4. Court Removed From: 366th Judicial District Court
Collin County Courthouse
2100 Bloomdale Road, Suite 30146
McKinney, TX 75071

B

STATE OF TEXAS)
COUNTY OF COLLIN)


I, Patricia Crigger, District Clerk in and for Collin County Texas, do hereby certify that the above foregoing is a true and correct copy of the original document as the same appears on the file in the District Court, Collin County, Texas. Witness my hand and seal of said Court, this the 1 day of July A.D., 2011

PATRICIA CRIGGER, DISTRICT CLERK
COLLIN COUNTY, TEXAS

Patricia Crigger DEPUTY

C

C-1


 Filed
 11 June 21 P7:12
 Patricia W. Crigger
 District Clerk
 Collin District

CAUSE NO. 366-02604-2011

STEVEN RANDOLPH CANNON and
FARAHNAZ K. CANNON,

Plaintiffs

v.

JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION

Defendant.

IN THE DISTRICT COURT

366 JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Come Now Plaintiffs STEVEN RANDOLPH CANNON and FARAHNAZ K. CANNON and file this Plaintiffs' Original Petition, and in support show the Court as follows:

**I.
PARTIES**

Plaintiff STEVEN RANDOLPH CANNON is an individual residing in Reston Virginia.

Plaintiff FARAHNAZ K. CANNON is an individual residing in Reston, Virginia.

Defendant JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, the legal successor by merger to CHASE HOME FINANCE, LLC, is a foreign financial institution doing business in Texas who may be served with process by serving its registered agent, CT Corporation System, at its registered office located at 350 N. St. Paul St., Suite 2900, Dallas, Texas 75201. Service of said Defendant as described above can be effected by personal delivery.

**II.
SELECTION OF DISCOVERY LEVEL**

Plaintiffs plead that discovery should be conducted in accordance with a discovery

control plan under Texas Rule of Civil Procedure 190.3 (Level 2).

III. JURISDICTION AND VENUE

The subject matter in controversy is within the jurisdictional limits of this Court. This Court has jurisdiction over the parties because at the time Plaintiffs' claims arose, Plaintiffs were owners of real property in Texas, and Defendant is a foreign financial institution doing business in Texas.

Venue in Collin County is proper in this cause under Section 15.002 and / or Section 15.011 of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this county, or this action involves real property as provided by said Section 15.011, and this county is where the real property is located.

IV. FACTS

This case arises from a dispute concerning the non-judicial foreclosure sale of Plaintiffs' residential property located at 1509 Pagewynne Dr., Plano, Texas 75093. The legal description is as follows:

BEING LOT 14, IN BLOCK A OF WYNDEMERE, AN ADDITION TO THE CITY OF PLANO, COLLIN COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME H, PAGE 456 OF THE MAP RECORDS OF COLLIN COUNTY, TEXAS (the "Property").

On March 3, 2009, Plaintiffs made a Note to AMERIGROUP MORTGAGE CORPORATION, A DIVISION OF MORTGAGE INVESTORS CORPORATION in the original principal amount of \$ 213,650.00 (the "Note"). To secure payment of the Note, Plaintiffs executed a Deed of Trust for the benefit of MORTGAGE ELECTRONIC REGISTRATION

SYSTEMS, INC. (the "Deed of Trust") which describes the Property.

Plaintiffs would show that, after the time of the inception of the loan to Plaintiffs, the Note and the security interest embodied in the Deed of Trust were separated, and the security interest in the Property was forfeited.

On or about February 1, 2011, CHASE HOME FINANCE, LLC, acting through a Substitute Trustee, purportedly conducted a non-judicial foreclosure sale of the Property, and a Substitute Trustee's Deed purported to convey the Property to CHASE HOME FINANCE, LLC.

Prior to the Substitute Trustee's Deed, CHASE HOME FINANCE, LLC claimed to be the owner and holder of the Note and Deed of Trust, or the person entitled to collect the Note and enforce the Deed of Trust. However, Plaintiffs would show that the Note and Deed of Trust were not lawfully and timely indorsed, transferred, and assigned to CHASE HOME FINANCE, LLC as owner and holder of the Note and Deed of Trust, and that CHASE HOME FINANCE, LLC was not authorized to collect the Note and enforce the Deed of Trust. Plaintiffs, therefore, would show that CHASE HOME FINANCE, LLC did not have the standing or legal right to declare a default in payment of the Note, accelerate the maturity of the Note, or foreclose on the Property. As a result, CHASE HOME FINANCE did not lawfully acquire the Property.

Furthermore, Plaintiffs would show that during the months of November, 2010 thru February, 2011, prior to CHASE HOME FINANCE, LLC's purported non-judicial foreclosure sale of the Property, Plaintiffs tendered 5 payments, in the total amount of \$ 9,150.00, to CHASE HOME FINANCE, LLC, or its duly authorized mortgage servicer, for the purpose of making payments claimed by CHASE HOME FINANCE, LLC under the terms of the Note. However, CHASE HOME FINANCE, LLC, or its duly authorized mortgage servicer, refused to accept Plaintiffs' 5 payments and refused to apply Plaintiffs' 5 payments to the Note.

V.
ACTION FOR TRESPASS TO TRY TITLE,
AND TO REMOVE CLOUD ON TITLE AND QUIET TITLE

Plaintiffs bring this suit under section 22.001 of the Texas Property Code, and under the common law and in equity, for trespass to try title, and to remove cloud on title and quiet title in the Property. Plaintiffs would show that Plaintiffs are, have always been, and remain the lawful owner of the Property, and that the purported Substitute Trustee's Deed to the Property asserted an interest in and to the Property which CHASE HOME FINANCE, LLC or its Substitute Trustee could not lawfully convey, and CHASE HOME FINANCE, LLC could not and did not lawfully acquire. Plaintiffs are and remain the legal and equitable owner of the Property, and the purported non-judicial foreclosure sale conducted by a Substitute Trustee of CHASE HOME FINANCE, LLC interferes with Plaintiffs' ownership interest in the Property.

VI.
REQUEST TO SET ASIDE TRUSTEE'S FORECLOSURE SALE,
AND TO CANCEL TRUSTEE'S FORECLOSURE SALE DEED

On or about February 1, 2011, CHASE HOME FINANCE, LLC, purporting to be the legitimate successor in interest to AMERIGROUP MORTGAGE CORPORATION, A DIVISION OF MORTGAGE INVESTORS CORPORATION, the original lender, or the person entitled to collect the Note and enforce the Deed of Trust, purported to conduct through a Substitute Trustee a non-judicial foreclosure sale of the Property. CHASE HOME FINANCE, LLC claimed to have purchased the Property at the sale, and CHASE HOME FINANCE, LLC and Defendant have claimed to be the owner of the Property in defiance of Plaintiffs' rights in the Property. CHASE HOME FINANCE, LLC's and Defendant's conduct constitutes a trespass and places an unlawful and illegitimate cloud on Plaintiffs' title. Unless this Court intervenes to set aside the Substitute Trustee's non-judicial foreclosure sale of the Property and cancel the Plaintiffs' Original Petition

Substitute Trustee's Deed pending the outcome of this case, Plaintiffs will suffer a permanent loss of the use and benefit of the Property. In order to preserve the status quo of the Property during the pendency of this case, Plaintiffs request this Court to enter an order setting aside the Substitute Trustee's non-judicial foreclosure sale of the Property and canceling the Substitute Trustee's Deed issued after the sale.

VII. REQUEST FOR DECLARATORY JUDGMENT

Plaintiffs petition this Court pursuant to the Uniform Declaratory Judgments Act ("the UDJA"), Chapter 37 of the Texas Civil Practices and Remedies Code, for construction of the Note and Deed of Trust, and declarations that:

- a) the Note and Deed of Trust were not lawfully and timely indorsed, transferred, and assigned from AMERIGROUP MORTGAGE CORPORATION, A DIVISION OF MORTGAGE INVESTORS CORPORATION, the original lender, to CHASE HOME FINANCE, LLC;
- b) CHASE HOME FINANCE, LLC did not have the standing or legal right to declare a default in payment of the Note, accelerate the maturity of the Note, or foreclose on the Property by, through, or under the obligations created by the Note and Deed of Trust;
- c) the Substitute Trustee's non-judicial foreclosure sale of the Property was invalid, and the Substitute Trustee's Deed issued after the sale is void;
- d) CHASE HOME FINANCE, LLC and Defendant are not the lawful owner of the Property; and
- e) the Note and the security interest embodied in the Deed of Trust were

separated, and the security interest in the Property was forfeited.

**VIII.
ACTION FOR VIOLATION OF THE
TEXAS DEBT COLLECTION PRACTICES ACT**

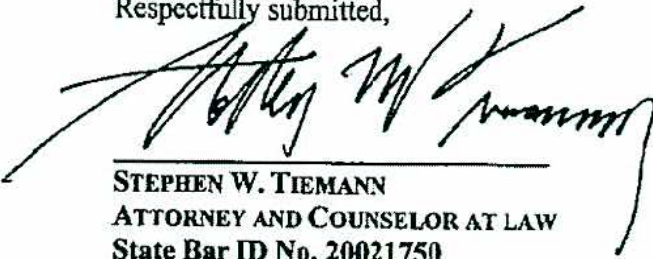
CHASE HOME FINANCE, LLC's acts, omissions, and conduct described above constitute violations of the Texas Debt Collection Practices Act, including Tex. Fin. Code Sec. 392.304, because CHASE HOME FINANCE, LLC misrepresented the character, extent, or amount of a debt against a consumer.

**IX.
DAMAGES AND ATTORNEYS' FEES**

Plaintiffs request the recovery of actual damages caused by CHASE HOME FINANCE, LLC's and Defendant's actions, and request recovery of their reasonable and necessary attorney's fees as allowed by law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendant be cited to appear and answer herein, and that this Court grant the relief, including declaratory relief, requested herein and issue such writs and processes to restore Plaintiffs' title and possession of the Property. Plaintiffs further request that this Court award title and possession of the Property to Plaintiffs as requested herein, together with their damages and attorney's fees, and further pray that this Court grant such other and further relief in law and in equity to which Plaintiffs may show themselves to be justly entitled.

Respectfully submitted,



STEPHEN W. TIEMANN
ATTORNEY AND COUNSELOR AT LAW
State Bar ID No. 20021750
2000 E. Lamar Blvd.
Suite 600
Arlington, Texas 76006
Tel: 817-275-7245
Fax: 817-275-1056
Email: swtlegal@gmail.com
Attorney for Plaintiffs

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CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY):

02604-2011

COURT (FOR CLERK USE ONLY):

366

STYLED Steven Randolph Cannon and Farahnaz K. Cannon v. JPMorgan Chase Bank, National Association

(e.g., John Smith v. All American Insurance Co.; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:	
Name:	Email:	Plaintiff(s)/Petitioner(s):	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other:		
Stephen W. Tiemann	swtlegal@gmail.com	Steven Randolph Cannon			
Address:	Telephone:	Farahnaz K. Cannon	Additional Parties in Child Support Case:		
2000 E. Lamar Blvd, Ste. 600	817-275-7245	Defendant(s)/Respondent(s):	Custodial Parent:		
City/State/Zip:	Fax:	JPMorgan Chase Bank,	Non-Custodial Parent:		
Arlington TX 76006	817-275-1056	National Association	Presumed Father:		
Signature: <i>Stephen W. Tiemann</i>	State Bar No:	[Attach additional page as necessary to list all parties]			
	20021750				
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)	
<input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract:	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability:	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input checked="" type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property:	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <input type="checkbox"/> Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order	
<input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:	<input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability <input type="checkbox"/> List Product: <input type="checkbox"/> Other Injury or Damage:	<input type="checkbox"/> Related to Criminal Matters <input type="checkbox"/> Expiration <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:	<input type="checkbox"/> Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:	<input type="checkbox"/> Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child	
Employment	Other Civil				
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:			
Tax	Probate & Mental Health				
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<input type="checkbox"/> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:		
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input checked="" type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	

C-3

Collin District - Civil

ELECTRONIC FILING MANAGER

Court Information

Clerk: Hill, Debbie

Filing Detail

Status: Confirmation
Official Date/Time: 06/21/2011 07:12:50 PM
Clerk Process Date: 06/22/2011 07:58:31 AM
Case/Cause Number: 366-02604-2011
Trace Number: ED043J016367822
Style/Case Name: Steven Randolph Cannon and Farahnaz K. Cannon v. JPMorgan Chase Bank, National Association
Filing Type: Original Petition - 1 to 10 Plaintiffs
Sealed Document: No
Jurisdiction: Collin District - Civil
Jurisdiction Type: District
Court/Calendar: 366th District Court
Hearing Date:
Filing Type and Fee Changes Allowed? Yes
Comments to the Filer:
Special Instructions:

Additional Comments:

Attorney & Filer Information

Attorney Name: Tiemann, Stephen W.
Attorney Email: steve@swtlaw.net
Bar Number: 20021750
Law Firm: Stephen W. Tiemann, Attorney and Counselor at Law
Address: 2000 E. Lamar Blvd.
Suite 600
City/State/Zip: Arlington, TX 76006
Phone Number: 817-275-7245
Fax Number: 817-275-1056
Filer Name: Tiemann, Stephen W.
Filer ID: swtgroup
Filer Email: steve@swtlaw.net
Filer Type: Attorney

Filing Parties**Name**

Tiemann, Stephen W.

Roles

Filer - Filing Attorney - Plaintiff Counsel

Petitioner Attorneys**Name**

Tiemann, Stephen W.

Roles

Filer - Filing Attorney - Plaintiff Counsel

Payment Information

Payment Method: Credit Card - Visa, Account # *****4584, Expiration Date - 10/31/2014

Filing Fees

Collin District - Civil eFiling Fee

\$5.00

Original Petition - 1 to 10 Plaintiffs

\$258.00

Filing Fee Total: \$263.00**Misc. Fees**

Citations

\$8.00

Number of Citations (1)

Misc. Fee Total: \$8.00**Grand Total: \$271.00****Document Information****Number of Documents**

2

Filing Document

File Name:

Cannon Petition.pdf

Document Description:

Attachments

File Name:

Cannon Cover Sheet.pdf

Document Description:

Status History**Status Date**

06/22/2011 07:58:31 AM

Status

Confirmation

Clerk ID

debbiec

Clerk Name

Debbie Hill

06/22/2011 07:32:36 AM

Acknowledgement - Open

debbiec

Debbie Hill

06/21/2011 07:12:41 PM

Acknowledgement

C-4

THE STATE OF TEXAS
CIVIL CITATION
CASE NO.366-02604-2011

Steven Randolph Cannon, Farahnaz K
Cannon Vs. JPMorgan Chase Bank, National
Association

In the 366th District Court

Of Collin County, Texas

NOTICE TO DEFENDANT: "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 Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: JPMorgan Chase Bank National Association the legal successor by merger to Chase Home Finance LLC

by serving its registered agent CT Corporation System
350 N St Paul St, Suite 2900
Dallas TX 75201, Defendant

GREETINGS: You are commanded to appear by filing a written answer to **Plaintiff's Original Petition** at or before ten o'clock A.M. on the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable 366th District Court of Collin County, Texas at the Courthouse of said County in McKinney, Texas.

Said Plaintiff's Petition was filed in said court, by Stephen W Tiemann 2000 E Lamar Bld Suite 600 Arlington TX 76006 (Attorney for Plaintiff or Plaintiffs), on June 22, 2011, in this case, numbered 366-02604-2011 on the docket of said court.

The natures of Plaintiff's demand is fully shown by a true and correct copy of **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

Issued and given under my hand and seal of said Court at McKinney, Texas, on this the 22nd day of June, 2011.

ATTEST: Patricia W. Crigger, District Clerk
Collin County, Texas

Collin County Courthouse
100 Bloomdale Road
McKinney, Texas 75071
972-948-4320, 972-421-1460 ext. 4320
By: *[Signature]* Deputy
Deborah [unclear]

FILED

The law prohibits the Judge and the clerk from giving legal advice, so please do not seek such advice. Any questions you have should be directed to an attorney.

PATRICIA CRIGGER
DISTRICT CLERK
COLLIN COUNTY, TEXAS
BY *[Signature]*

AFFIDAVIT OF SERVICE

State of Texas

County of Collin

366th Judicial District Court

Case Number: 366-02604-2011



LAW2011002420

Plaintiff:

STEVEN RANDOLPH CANNON AND FARAHNAZ K. CANNON

vs.

Respondent:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

Received by LAWYERS CIVIL PROCESS, INC. on the 1st day of July, 2011 at 1:13 pm to be served on JPMorgan Chase Bank National Association by delivering to its Registered Agent, C.T. Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, TX 75201.

I, Brandon Sachse, being duly sworn, depose and say that on the 5th day of July, 2011 at 2:00 pm, I:

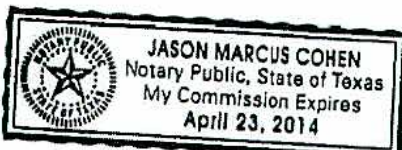
executed service upon a **REGISTERED AGENT** by delivering a true copy of the Citation with Plaintiff's Original Petition with the date of service endorsed thereon by me, to: **C.T. Corporation System**, by delivering to **Chasity Grant** as Registered Agent at the address of: **350 N. St. Paul Street, Suite 2900, Dallas, TX 75201** on behalf of **JPMorgan Chase Bank National Association**, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 35, Sex: F, Race/Skin Color: Black, Height: 5'10", Weight: 210, Hair: Black, Glasses: Y

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the State of Texas.

Subscribed and sworn to before me on the 5th day of July, 2011 by the affiant who is personally known to me.

Notary Public



Brandon Sachse
SCH-1082

LAWYERS CIVIL PROCESS, INC.
400 S. Houston Street, Ste 105
Dallas, TX 75202
(214) 651-7111

Our Job Serial Number: LAW-2011002420

Service Fee: _____

D

