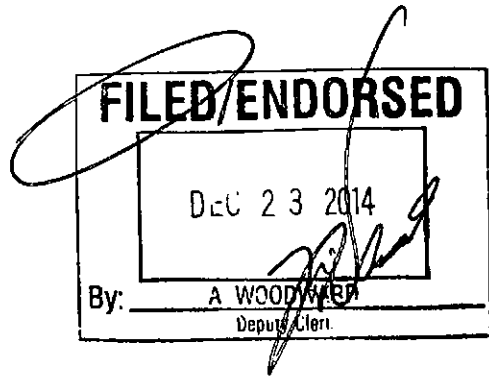


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8 WELLS FARGO BANK, N.A. and
9 U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR WFASC 2005-ARI

10
11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SACRAMENTO

13
14 THADDEUS J. POTOCKI and
KELLY R. DAVENPORT,

15 Plaintiffs,

16 vs.

17 WELLS FARGO BANK, N.A.;
18 FIRST AMERICAN SERVICING
SOLUTIONS, LLC;
19 U.S. BANK, N.A.; and
DOES 1 through 100, inclusive,

20 Defendants.

Case No. 34-2014-00160873
The Hon. David W. Abbott, Dept. 39

**NOTICE OF DEMURRER AND
DEMURRER BY WELLS FARGO BANK
AND U.S. BANK TO PLAINTIFFS' FIRST
AMENDED COMPLAINT**

Date: February 3, 2015
Time: 2:00 p.m.
Dept.: 53
Judge: Hon. David L. Brown
Reservation No.: 2010118

Action Filed: March 27, 2014
Trial Date: None

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22
23 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

24 **PLEASE TAKE NOTICE** that on February 3, 2015, at 2:00 p.m. or soon thereafter as the
25 matter may be heard, in Department 53 of the Sacramento County Superior Court, before the
26 Honorable David L. Brown, defendants Wells Fargo Bank, N.A. ("Wells Fargo") and U.S. Bank
27 National Association, as Trustee for WFASC 2005-ARI ("U.S. Bank"), will and hereby do demur
28 to the First Amended Complaint of plaintiffs Thaddeus J. Potocki and Kelly R. Davenport.

X
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F
B
Y

1 The demurrer is based on this notice, the memorandum of points and authorities and
2 request for judicial notice submitted herewith, the Complaint and First Amended Complaint filed
3 by the plaintiffs, and such other papers on file in this action and argument or evidence presented at
4 the hearing as the Court may properly consider.

5 **Tentative Ruling Procedure**

6 PURSUANT TO LOCAL RULE 1.06 (A), THE COURT WILL MAKE A TENTATIVE
7 RULING ON THE MERITS OF THIS MATTER BY 2:00 P.M. THE COURT DAY BEFORE
8 THE HEARING. THE COMPLETE TEXT OF THE TENTATIVE RULINGS FOR THE
9 DEPARTMENT MAY BE DOWNLOADED FROM THE COURT'S WEBSITE. A PARTY
10 WHO DOES NOT HAVE ONLINE ACCESS MAY CALL THE DEDICATED PHONE
11 NUMBER FOR THE DEPARTMENT AS REFERENCED IN THE LOCAL TELEPHONE
12 DIRECTORY BETWEEN THE HOURS OF 2:00 P.M. AND 4:00 P.M. ON THE COURT DAY
13 BEFORE THE HEARING TO RECEIVE THE TENTATIVE RULING. IF THE PARTY
14 WISHING TO BE HEARD DOES NOT CALL THE COURT AND THE OPPOSING PARTY
15 BY 4:00 P.M. ON THE COURT DAY BEFORE THE HEARING, NO HEARING WILL BE
16 HELD.

17 **Demurrer to First Amended Complaint**

18 Wells Fargo and U.S. Bank demur to each of the causes of action in the plaintiffs'
19 First Amended Complaint on the following grounds:

- 20 1. Plaintiffs' first cause of action, for negligence *per se*, fails to state facts sufficient to
21 constitute a cause of action. (Cal. Code Civ. P., § 430.10(e).)
- 22 2. Plaintiffs' second cause of action, for violation of California Business and
23 Professions Code sections 17200, *et seq.*, fails to state facts sufficient to constitute a cause of
24 action. (Cal. Code Civ. P., § 430.10(e).)
- 25 3. Plaintiffs' third cause of action, for violation of California Civil Code section
26 2924(a)(6), fails to state facts sufficient to constitute a cause of action. (Cal. Code Civ. P.,
27 § 430.10(e).)

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SERVICE LIST

Thaddeus J. Potocki, et al. v. Wells Fargo Bank, N.A., et al.
Sacramento County Superior Court Case No. 34-2014-00160873

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