

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Gregory LaPorta

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) Matthew Q. Callister, Esq. 823 Las Vegas Blvd. Las Vegas, NV

DEFENDANTS

Bank of America

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF 1, 2, 3, 4, 5, 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 12 USC 2603. Brief description of cause: Real Estate Settlement Procedures Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 07/01/2011 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Nevada

GREGORY LAPORTA

Plaintiff

v.

Bank of America, et al

Defendant

Civil Action No. 2:11-cv-01094-KJD -GWF

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Bank of America National Corporation

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Matthew Q. Callister, Esq.
823 Las Vegas Blvd. South
Fifth Floor
Las Vegas, NV 89101

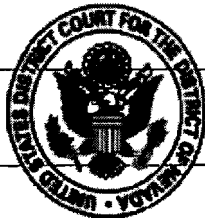
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

LANCE S. WILSON

CLERK

Lance S. Wilson

(By) DEPUTY CLERK



July 1, 2011

DATE

Civil Action No. 2:11-cv-01094-KJD -GWF

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

District of Nevada

GREGORY LAPORTA

Plaintiff

v.

Bank of America, et al

Defendant

Civil Action No. 2:11-cv-01094-KJD -GWF

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BAC Home Loan Servicing

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Matthew Q. Callister, Esq.
823 Las Vegas Blvd. South
Fifth Floor
Las Vegas, NV 89101

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

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_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

1 **MATTHEW Q. CALLISTER, ESQ.**
 Nevada Bar No. 001396
 2 mqc@call-law.com
ADAM P. ROSENBERG, ESQ.
 3 Nevada Bar No. 12082
 adam@call-law.com
 4 **CALLISTER + ASSOCIATES, LLC**
 823 Las Vegas Boulevard South, Fifth Floor
 5 Las Vegas, NV 89101
 Telephone No.:(702) 385-3343
 6 Facsimile No.: (702) 385-2899
Attorneys for Plaintiff

7
 8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 GREGORY LAPORTA an individual

Case No.:

11 Plaintiff,

Dept. No.:

12 vs.

COMPLAINT

13 BANK OF AMERICA, a Delaware
 Corporation; BANK OF AMERICA
 14 NATIONAL CORPORATION, a North
 Carolina Corporation; BAC HOME LOAN
 15 SERVICING, a Texas Corporation; DOES I
 through X, inclusive; and ROE
 16 CORPORATIONS I through X, inclusive;

Demand for Jury Trial

17 Defendants.

18
 19 COMES NOW, Plaintiff GREGORY LAPORTA, by and through his attorneys, ADAM P.
 20 ROSENBERG, ESQ., and MATTHEW Q. CALLISTER, ESQ, of the law firm of CALLISTER +
 21 ASSOCIATES, LLC, and hereby Complains, alleges and avers against the named Defendants,
 22 BANK OF AMERICA, BANK OF AMERICA NATIONAL CORPORATION, and BAC HOME
 23 LOAN SERVICING (henceforth referred to collectively as "BANK OF AMERICA") as follows:
 24

25 **PARTIES AND JURISDICTION**

- 26 1. Plaintiff, GREGORY LAPORTA, (hereinafter "LAPORTA"), is an individual residing in
 27 Clark County, Nevada.
 28 2. At all times relevant herein, Defendant BANK OF AMERICA ,(hereinafter "HARRIS") is

- 1 Delaware Corporation doing business in the state of Nevada when the events herein occurred.
- 2 3. At all times relevant herein, Defendant BANK OF AMERICA NATIONAL
- 3 CORPORATION is a North Carolina Corporation doing business in Clark County, Nevada
- 4 when the events herein occurred.
- 5 4. Upon information and belief and at all time relevant herein, Defendant BAC HOME LOAN
- 6 SERVICING is a Texas Corporation doing business in Clark County, Nevada where the
- 7 events herein occurred.
- 8 5. The true names of the capacities, whether individual, agency, corporate, associate or
- 9 otherwise, of Defendants, DOES I through X, inclusive, are unknown to Plaintiff. Plaintiff
- 10 will ask leave of the Court to amend this Complaint to show the true names and capacities of
- 11 these Defendants, when they become known to Plaintiff, Plaintiff believes each Defendant
- 12 named as DOE was responsible for contributing to Plaintiffs damages, set forth herein.
- 13 6. The true names of the capacities, whether individual, agency, corporate, associate or
- 14 otherwise, of Defendants, ROE CORPORATIONS I through X, inclusive, are unknown to
- 15 Plaintiff. Plaintiff will ask leave of the Court to amend this Complaint to show the true
- 16 names and capacities of these Defendants, when they become known to Plaintiff, Plaintiff
- 17 believes each Defendant named as ROE CORPORATION was responsible for contributing
- 18 to Plaintiffs damages, as set forth herein.
- 19 7. Jurisdiction and Venue is proper in this court.

20 **FACTS COMMON TO ALL ALLEGATIONS**

- 21 8. In early 2008 LAPORTA purchased the real property located at 7260 Early Pioneer Avenue,
- 22 Las Vegas, NV 89129 (henceforth referred to as the "HOME")
- 23 9. As part of the purchase of this home LAPORTA originated mortgages with First Horizon
- 24 Loans.
- 25 10. One month after the origination of the mortgage, First Horizons Loans sold LAPORTA's
- 26 loan to Countrywide Bank.
- 27 11. At this time LAPORTA began making payments to Countrywide Bank.
- 28 12. Countrywide filed the Assignment of Deed of Trust with Clark County Nevada Recorder's

1 Office on July 29, 2008..

2 13. In July, 2009 BANK OF AMERICA purchased Countrywide Bank.

3 14. BANK OF AMERICA at this time contacted LAPORTA requesting that he make all future
4 payments to BANK OF AMERICA.

5 15. BANK OF AMERICA never filed an Assignment of Deed of Trust with the Clark County
6 Nevada Recorder's Office and currently Countrywide is still listed as the beneficiary on the
7 Deed of Trust.

8 16. During the time that LAPORTA forwarded his mortgage payments to BANK OF AMERICA,
9 the Defendant failed to accurately report any of his mortgage payments to any credit reporting
10 agencies.

11 17. Due to the lack of reporting to the credit reporting agencies, LAPORTA's credit was
12 adversely affected.

13 18. On or about July 29, 2010 LAPORTA applied for a consumer credit line (henceforth referred
14 to as the "Barclaycard").

15 19. LAPORTA was denied the Barclaycard due to a lack of credit history and current accounts.

16 20. This denial was directly related to BANK OF AMERICA's failure to report LAPORTA's
17 mortgage payments.

18 21. On or about April 30, 2011 LAPORTA applied for a consumer credit line(henceforth referred
19 to as the "BankAmericard")

20 22. LAPORTA was denied the BankAmericard due to a lack of credit history.

21 23. On or about April 28, 2011 LAPORTA was notified by State Farm Insurance, LAPORTA's
22 home insurer, that BANK OF AMERICA was removed as the lien holder on the insurance
23 policy.

24 24. BANK OF AMERICA's failure to file an Assignment of Deed of Trust with the Clark
25 County Nevada Recorder's Office leaves LAPORTA unable to determine who the actual line
26 holder is.

27 25. On or About June 29, 2010 LAPORTA sent BANK OF AMERICA a "qualified written
28 request" to determine why BANK OF AMERICA had not reported his mortgage payments.

- 1 26. BANK OF AMERICA refused to fully comply with the Qualified Written Request (QWR).
2 27. BANK OF AMERICA stated that the request was "overly broad, [and] unduly burdensome."
3 28. After BANK OF AMERICA filed the processed the QWR, BANK OF AMERICA continued
4 in its failure to report LAPORTA's mortgage payments on his credit report.
5 29. As a result of BANK OF AMERICA's failure to submit accurate information to the credit
6 reporting agencies, LAPORTA is being continually damaged as his credit rating is not an
7 accurate reflection of his actual credit history.
8 30. As a result of BANK OF AMERICA's failure to submit accurate information to the credit
9 reporting agencies LAPORTA is unable to achieve any upward mobility for refinancing with
10 other lenders and is unable to obtain homeowners insurance through other insurance
11 companies.

12
13 **FIRST CAUSE OF ACTION**

(Violations of 12 U.S.C. §2605 of the Real Estate Settlement Procedures Act)

- 14 31. Plaintiff repeats and re-alleges each and every allegation in this Complaint, and further
15 alleges, as follows:
16 32. Pursuant to 12 U.S.C. §2605 BANK OF AMERICA had a duty to make appropriate
17 corrections in the accounts of borrowers who submit a qualified written request.
18 33. That BANK OF AMERICA, as servicer of loans, had a duty to LAPORTA under this statute
19 to perform a reasonable investigation and make appropriate corrections to his account.
20 34. In contravention to the spirit of the statute, BANK OF AMERICA refused to fully process
21 the qualified written request of LAPORTA and instead referred LAPORTA to the entities
22 that BANK OF AMERICA services.
23 35. That as a result of BANK OF AMERICA's violations under the statute LAPORTA has
24 suffered severe financial loss and emotion damages.
25 36. That LAPORTA has been forced to retain the services of an attorney to prosecute this action,
26 and a reasonable sum should be allowed as and for attorney's fees and costs incurred.

27 ///

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SECOND CAUSE OF ACTION
(Violations of 12 U.S.C. §§1681-1681x of the Fair Credit Reporting Act)

1
2 37. Plaintiff repeats and re-alleges each and every allegation contained in the preceding
3 paragraphs as though set forth herein, and further alleges, as follows.

4 38. Pursuant to 12 USC §1681s-2(a)(1)(A) BANK OF AMERICA “shall not furnish any
5 information relating to a consumer to any consumer reporting agency if the person knows or
6 has reasonable cause to believe that the information is inaccurate.”

7 39. Furthermore pursuant to 12 USC §1681s-2(a)(1)(B) BANK OF AMERICA “shall not furnish
8 information relating to a consumer to any consumer reporting agency if ...the information is,
9 in fact, inaccurate.”

10 40. BANK OF AMERICA has willfully and negligently furnished inaccurate information
11 regarding LAPORTA’s mortgage accounts to all 3 major credit reporting agencies in
12 contravention of this statute.

13 41. BANK OF AMERICA knew or should have known that the information furnished to the 3
14 major credit reporting agencies concerning LAPORTA’s mortgage was inaccurate.

15 42. That as a result of BANK OF AMERICA’s willfully and negligent credit reporting
16 LAPORTA has been unable to open subsequent credit accounts and has been damaged.

17 43. That as a result of BANK OF AMERICA’s willful and negligent furnishing of inaccurate
18 credit information LA PORTA has suffered severe financial damage.

19 44. That Plaintiff has been forced to retain the services of an attorney to prosecute this action,
20 and a reasonable sum should be allowed as and for attorney’s fees and costs incurred.

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22 ///

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24 ///

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26 ////

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28 ////

1 **WHEREFORE**, Plaintiff, expressly reserving the right to amend his Claims to include all
2 items of damages not yet ascertained, demands judgment against the Defendants, and each of them,
3 for the following relief:

- 4 1. Judgment against all Defendants for Plaintiff's emotional and actual damages;
- 5 2. Attorney's fees and costs incurred herein; and
- 6 3. Such further relief as the Court in its discretion may grant at the time of trial.

7
8 DATED: This 30 day of June, 2011.

9 **CALLISTER + ASSOCIATES, LLC**

10
11 

12 **MATTHEW Q. CALLISTER, ESQ.**

13 Nevada Bar No.: 001396

14 **ADAM P. ROSENBERG, ESQ**

15 Nevada Bar No.: 12082

16 823 Las Vegas Blvd. South

17 Las Vegas, Nevada 89101

18 Telephone No.: (702) 385-3343

19 Fax No.: (702)385-2899

20 *Attorneys for Plaintiff*

1 **MATTHEW Q. CALLISTER, ESQ.**
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2 mqc@call-law.com
3 **ADAM P. ROSENBERG, ESQ.**
Nevada Bar No. 012082
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7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 GREGORY LAPORTA, an individual,
11 Plaintiff,
12 vs.

Case No.: 2:11-CV-01094-KJD-GWF

**CERTIFICATE AS
TO INTERESTED PARTIES**

13 BANK OF AMERICA, a Delaware
Corporation; BANK OF AMERICA
14 NATIONAL CORPORATION, a North
Carolina Corporation; BAC HOME LOAN
SERVICING, a Texas Corporation; DOES I
15 through X, inclusive; and ROE
CORPORATIONS I through X, inclusive;
16 Defendants.

17
18
19 Pursuant to Local Rule 10-6, the undersigned counsel of record for Plaintiff certifies that the
20 following have an interest in the outcome of this case:

21 GREGORY LAPORTA

22 Plaintiff does not know of any individuals or entities, other than those identified in this matter,
23 that have a financial interest in the outcome of this litigation.

24 DATED this ____ day of July 2011.

25 **CALLISTER + ASSOCIATES, LLC**

26 /s/ Adam P. Rosenberg, Esq.
27 ADAM P. ROSENBERG, ESQ.
Nevada Bar No. 012082
28 823 Las Vegas Boulevard South, Fifth Floor
Las Vegas, Nevada 89101