

Page 1

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF WASHINGTON
 3 AT SEATTLE

5 In Re: Case No. 07-13346-KAO
 6 Steven C. Bateman and
 7 Virginia T. Lee,
 8 Debtors.

10 Edmund J. Wood, solely in his capacity as
 11 Chapter 7 Trustee for the Bankruptcy Estate
 12 of Steven C. Bateman and Virginia T. Lee,
 13 Plaintiff,
 14 vs.
 15 Deutsche Bank National Trust Company as Trustee for
 16 Long Beach Mortgage Loan Trust 2006-1; Long Beach
 17 Mortgage Company; Washington Mutual Bank, as successor-
 18 in-interest to Long Beach Mortgage Company by operation
 19 of law and/or as its attorney in fact; JPMorgan Chase
 20 Bank, N.A.; Lender's Processing Services, Inc.;
 21 Platinum Homes, Inc.; Northwest Trustee Services, Inc.,
 22 Defendants.

24 DEPOSITION OF SCOTT A. WALTER
 25 Taken January 13, 2010

Page 3

1 APPEARANCES (Continued):
 2
 3 ON BEHALF OF DEFENDANT LENDER PROCESSING SERVICES:
 4 Richard E. Spoonemore, Esq.
 5 SIRIANNI YOUTZ MEIER & SPOONEMORE
 6 1100 Millennium Tower
 7 719 Second Avenue
 8 Seattle, Washington 98104
 9 206.223.0303
 10 rspoonemore@sylaw.com
 11 and
 12 Ross Gloudeman, Esq.
 13 LENDER PROCESSING SERVICES
 14 Suite 200
 15 1270 Northland Drive
 16 Mendota Heights, Minnesota 55120
 17 651.234.3662
 18 ross.gloudeman@lpsdefaultsolutions.com
 19
 20
 21
 22
 23 NOTE: The original transcript will be filed
 24 with the Law Offices of Melissa A. Huelsman pursuant to
 25 the applicable Rules of Civil Procedure.

Page 2

1 The deposition of SCOTT A. WALTER, taken on
 2 January 13, 2010, commencing at 3:35, taken at 1400
 3 Rand Tower, 527 Marquette Avenue, South, Minneapolis,
 4 Minnesota, before Cindy L. Schultz, Registered Merit
 5 Reporter, Certified Realtime Reporter, Certified
 6 LiveNote Reporter, and Notary Public of and for the
 7 State of Minnesota.

A P P E A R A N C E S

9 ON BEHALF OF PLAINTIFF KRISTIN BAIN:
 10 Melissa A. Huelsman, Esq.
 11 LAW OFFICES OF MELISSA A. HUELSMAN, P.S.
 12 Suite 1050
 13 705 Second Avenue
 14 Seattle, Washington 98104
 15 206.447.0103

17 TELEPHONICALLY ON BEHALF OF DEUTSCHE BANK NATIONAL
 18 TRUST COMPANY AND JPMORGAN CHASE BANK (Wood v.
 19 Deutsche Bank National Trust Company, et al.):
 20 Josh Rataezky, Esq.
 21 DAVIS WRIGHT TREMAINE LLP
 22 Suite 2200
 23 1201 Third Avenue
 24 Seattle, Washington 98101
 25 206.622.3150

Page 4

I N D E X

2 WITNESS: SCOTT A. WALTER
 3
 4 EXAMINATION BY PAGE
 5 Ms. Huelsman.5
 6
 7 INSTRUCTIONS NOT TO ANSWER
 8 None
 9
 10 DOCUMENT REQUESTS
 11 None
 12
 13 PLAINTIFF EXHIBITS MARKED/REFERRED TO
 14 No. 22: Assignment of Deed of Trust. 19
 15 No. 23: Default Services Agreement Between
 16 IndyMac Bank, FSB and Fidelity National
 17 Foreclosure Solutions, Inc. 22
 18 LPS-BELL 0009 - 0012
 19 No. 24: Agreement for Signing Authority. . . . 22
 20 LPS-BELL 0005 - 0008
 21 No. 25: First Addendum to Default Services
 22 Agreement.23
 23 LPS-BELL 0013 - 0015
 24
 25

<p style="text-align: right;">Page 5</p> <p>1 Q. Please state your name. 2 A. Scott Walter. 3 MS. HUELSMAN: And did you swear him? 4 COURT REPORTER: Ooh. 5 MS. HUELSMAN: That's what I was 6 waiting -- 7 COURT REPORTER: I'm sorry. 8 MS. HUELSMAN: -- for. I thought I should 9 do that. 10 SCOTT A. WALTER, 11 being first duly sworn, was examined and testified as 12 follows: 13 EXAMINATION 14 Q. Give me your business address. 15 A. 1270 Northland Drive, Mendota Heights, 16 Minnesota, 55120. 17 Q. Okay. Have you had your deposition taken 18 before? 19 A. Yes. 20 Q. In connection with -- How many times? 21 A. I couldn't say. 22 Q. Multiple? 23 A. Multiple. 24 Q. Okay. Are you -- Do you regularly appear as 25 a deponent on behalf of LPS?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. Chapman University. 2 Q. And what years did you attend Chapman? 3 A. 1998 through 2003. 4 Q. Okay. Any other education or training that 5 was formalized? 6 A. Not that I know of. 7 Q. Okay. And can you give me your job history, 8 beginning with your employment after high school? 9 A. In college I managed a movie theatre for 10 seven years. After college I worked for the law firm 11 of Wenzel and Associates, which is a personal injury 12 family law firm. 13 Q. And what was your role there? 14 A. I was a -- I guess you could say I was a 15 support person. I supported the paralegals and the 16 attorneys by drafting and reading pleadings and 17 preparing discovery, propounding Interrogatories. And 18 after my time -- 19 Q. And, I'm sorry, what were the years of your 20 employment there? 21 A. I started in 1999 through 2004 -- '3 -- 2003. 22 Q. Okay. And then where did you work after the 23 law firm? 24 A. I worked for Fidelity National Financial. 25 Q. So it's Fidelity National Financial that you</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Can you define "regularly"? 2 Q. How many times a month do you appear as a 3 deponent on behalf of LPS? 4 A. None. 5 Q. How many times a year? 6 A. It's hard to say. Less -- 7 Q. Can you give me your best estimate, please? 8 A. Less than once. 9 Q. Okay. And so why have you had your 10 deposition taken on multiple occasions? 11 A. In previous employment. 12 Q. And that was for whom? 13 A. Edwards Theatres. 14 Q. All right. So you know about the rules of 15 depositions, and so I won't go over them with you. 16 I'll just remind you to make sure that you keep track 17 of not speaking when I'm talking. All right. 18 Can you give me your educational background, 19 beginning after high school? 20 A. I have a bachelor of arts in English, and I 21 have graduate work, but I did not finish. 22 Q. Okay. And what college did you attend where 23 you received your BA? 24 A. Chapman University. 25 Q. And where did you attend graduate school?</p>	<p style="text-align: right;">Page 8</p> <p>1 worked for? 2 A. After the time of the attorney shop, I moved 3 here to Minnesota and I worked with this company. It 4 has changed its name a couple times. 5 Q. Okay. So in your first job, though, with the 6 predecessor entities of LPS, you were working for the 7 corporate entity known as Fidelity National Financial, 8 correct? 9 A. I think so. 10 Q. Oh, okay. And what were you doing for 11 Fidelity National Financial? 12 A. I worked in the areas that support our 13 technology platforms. 14 Q. And can you explain in layperson's terms what 15 that means? 16 A. My company is a technology company, and I am 17 an operations -- in the operations supporting that 18 technology, assisting people on using the technology, 19 training to use the technology. 20 Q. Okay. And how long were you employed there 21 -- That was in California, right? 22 A. No. 23 Q. I'm sorry, that wasn't. So when you started 24 with them, you started actually here in Minneapolis? 25 A. Correct.</p>

<p style="text-align: right;">Page 9</p> <p>1 Q. Okay. And so what prompted you to move to 2 Minneapolis? The love of snow? 3 A. I do love snow, Counselor, but I had spent my 4 life in California, and I wanted to live in the 5 Midwest. There were job opportunities that I had heard 6 about, and I moved to Minnesota to pursue them. 7 Q. Okay. And did you get the job with Fidelity 8 after you got here? 9 A. As I got here. 10 Q. Okay. And how long were you in that first 11 job that you just described? 12 A. I -- It's through present. I have -- 13 Q. Okay. 14 A. My career has been in that same group 15 throughout. 16 Q. Has your job title been the same? 17 A. No. 18 Q. And, I'm sorry, what was your first job 19 title, again? 20 A. Specialist. 21 Q. Specialist, okay. And then can you tell me 22 the different positions that you've -- as you've moved 23 up? 24 A. Lead, supervisor, manager, assistant vice 25 president, vice president of operations.</p>	<p style="text-align: right;">Page 11</p> <p>1 A. People that work for me are going to assist 2 my customers in managing workflow, managing milestones 3 of the various activities that my groups assist our 4 customers in managing through our technology, and we 5 provide administrative support for certain activities 6 that may take place. 7 Q. How do they accomplish these goals? How did 8 they -- How do they accomplish these goals? 9 A. I'd probably need you to ask me that a 10 different way. 11 Q. Well, you said that you assist clients with 12 managing or -- the data flow, right? 13 A. Correct. 14 Q. What does that mean in practical terms? What 15 do they do? 16 A. Okay. Certain activities that take place in 17 the technology platform that our customers use have 18 certain administrative and other milestones that are 19 tracked within the system. My staff provides analytics 20 and reporting support to help my customers manage their 21 workflow daily. 22 Q. So your employees at LPS look at a particular 23 file for an attorney law firm, and they say, Well, we 24 have milestones that this firm needs to reach on these 25 files, and they have not reached them. How do they</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. Okay. And you have -- How have your job 2 duties changed as you've moved up? 3 A. I would say at an operational level, I simply 4 have more responsibility. 5 Q. For what? 6 A. For my staff. 7 Q. Okay. And how many do you currently 8 supervise? 9 A. Over 80. 10 Q. Okay. And, again, your focus is on the 11 technology, making sure the software and the various 12 platforms are operating? 13 A. I work in an operations group that help the 14 end-users navigate the platform. 15 Q. So that means the lenders are servicers and 16 and the attorneys? 17 A. Correct. 18 Q. So is it training or mentoring, that kind of 19 thing? 20 A. We provide training and then daily monitoring 21 of the various activities that our customers use our 22 technology platform for. 23 Q. Okay. So put it, for me, in layperson's 24 terms. What do the people who work under you every day 25 do to monitor?</p>	<p style="text-align: right;">Page 12</p> <p>1 reach those goals? Am I paraphrasing correctly? 2 A. I would agree you're paraphrasing. 3 Q. Then correct me. 4 A. Okay. We would look for certain milestones 5 that would come "due" -- quote, unquote, "due." 6 Q. Which would be deadlines, right? 7 A. No, not deadlines. We are involved in 8 assisting attorneys and customers when certain expected 9 milestones may have happened. When they have not 10 happened, we offer administrative assistance to help 11 those groups communicate with each other to effectively 12 fill in whatever information or necessary requirements 13 are provided between the two entities. 14 Q. So why don't you give me an example. 15 A. As an example, a certain hearing date may be 16 coming due and an agent for the servicer may require a 17 certain collateral document at a given time prior to 18 hearing. We would go in and confirm whether the 19 servicer was able to provide said collateral document. 20 Q. For example, an assignment? 21 A. Sure. Yeah. 22 Q. Okay. 23 A. Any collateral document could be used in this 24 example. 25 And then the -- we would communicate between</p>

<p style="text-align: right;">Page 13</p> <p>1 both the servicer and the agent, make sure everybody is 2 aware that the collateral document is required and 3 assist the two groups in communicating together through 4 the technology to make sure all the documents required 5 are there. 6 Q. Okay. So in your example, say we are talking 7 about an assignment, okay? That's going to be the 8 collateral document we're talking about, all right? So 9 a servicer and an attorney are working together on a 10 particular loan file, and the attorney discovers that 11 they need an Assignment of the Deed of Trust, and for 12 whatever purposes they've decided they need it. Okay? 13 Am I on track so far with my hypothetical? 14 A. Yes. 15 Q. Okay. So your group, if I'm understanding 16 you correctly, is monitoring this situation, sees that 17 a hearing date is coming up, and the attorney has 18 indicated that they need this assignment before this 19 hearing date. It's in the system. That information is 20 contained in the system. Am I on track so far? 21 A. Yes. 22 Q. Okay. So from what I'm understanding you're 23 telling me, your group -- somebody in your group then 24 gets in touch with the attorney and the servicer to 25 say, Hey, this deadline is coming up, self-imposed,</p>	<p style="text-align: right;">Page 15</p> <p>1 documents through our connectivity with MSP, and in 2 that situation, if the assignment was there and the 3 attorney had asked for a copy of the assignment, we 4 would provide that copy of the assignment to the 5 attorney. Then it would be for the attorney to 6 determine if that's truly the assignment they required. 7 Q. Okay. And -- All right. What if the 8 assignment is not there, it's not in MSP? 9 A. If the servicer advises that they do not have 10 the assignment, they will notify, through the 11 technology, their agent, and advise them that the 12 assignment is missing. 13 Q. And then what happens? 14 A. Depending on jurisdiction, I'm assuming the 15 attorney would, per their jurisdiction, look in any 16 avenues to remedy the missing chain. But I'm an 17 attorney, so I don't -- I'm not exactly sure what they 18 do. 19 Q. And so once that occurs, does that end LPS's 20 involvement, at least from your department's 21 perspective? 22 A. We may assist the attorney to procure any 23 information they may need from the servicer -- 24 Q. How? 25 A. -- if they ask it.</p>
<p style="text-align: right;">Page 14</p> <p>1 whatever, it's a hearing date, it's a milestone. This 2 document needs to be given to the attorney. How do we 3 help you to accomplish this goal; is that correct? 4 A. Yes. 5 Q. Okay. Does it make -- does LPS make specific 6 recommendations about how to accomplish that goal? 7 A. Never. 8 Q. Okay. It simply sets up the communication 9 between the servicer and the attorney? 10 A. Yes, to a point. 11 Q. Tell me what's beyond that point. 12 A. We do provide administrative services for 13 both our servicing customers and our agent customers. 14 Q. Like what? 15 A. Things -- An example would be using secured 16 data connectivity between our technology platform and 17 the servicer's system of record. Oftentimes we are 18 able to use that technology to provide certain copies 19 of documents from the collateral group to go back to 20 the example we were using before. 21 Q. So, for example, using my example of an 22 assignment, LPS might access the records on MSP that 23 the servicer has to see if there -- the assignment that 24 everybody is waiting for is actually there? 25 A. The servicer may provide us with the</p>	<p style="text-align: right;">Page 16</p> <p>1 Using the technology, there are -- in 2 layman's terms, there are buttons in the system for the 3 attorney to ask for certain escalated assistance to 4 their customer, the servicer, and we help the servicer 5 manage those buttons, those requests within the system. 6 So as an example, perhaps, if the attorney's advised, 7 there is not -- the assignment is not in the collateral 8 file, as the example we were using before, the attorney 9 may require a conversation with the servicer to 10 determine what the best course of action may be. They 11 can contact their servicer -- their customer through 12 our technology. If they require certain information 13 from the customer, the servicer system of record, they 14 can ask for certain data elements from the system of 15 record through an interface through our technology. 16 Q. Okay. So, for example, in a scenario where 17 the assignment is not in the servicer's records and one 18 needs to be executed, are you involved in that process? 19 A. No. 20 Q. And by "you," I'm talking about your 21 department and you personally. 22 A. My department is not involved with deciding 23 whether a document is required. 24 Q. Okay. You -- Do you execute documents, 25 though?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. I execute documents, yes. 2 Q. Including Appointment of Successor Trustee 3 and assignment documents? 4 A. I do sign those two document types, yes. 5 Q. Do you sign any other document types? 6 A. Not that I'm aware of. 7 Q. Do you ever sign on declarations or 8 affidavits in connection with the Motion for Relief 9 from Stay? 10 A. I do not sign declarations or affidavits. 11 Q. Okay. So your signing is limited to 12 Appointment of Successor Trustees documents and 13 assignment documents? 14 A. Can you clarify the second one? 15 Q. The Assignment of Deeds of Trust? 16 A. No. I got that one. 17 Q. Appointment of Successor Trustee? 18 A. I got that one too. There was one in the 19 middle, and I need you to clarify. 20 Q. No, those are the two that I said. 21 A. Okay, can you read back her question for me? 22 MR. SPOONEMORE: That's okay. Those are 23 the only two. Those are the only two. 24 A. Okay, those are the only two, that I'm aware 25 of.</p>	<p style="text-align: right;">Page 19</p> <p>1 back -- it is put into a manila envelope, and it is 2 taken away from me. 3 Q. And when you were signing the document in 4 front of this messenger, is that person the notary? 5 A. I'm unaware if they are the notary or not, 6 but they are within the same department. 7 Q. Okay. Do you ever sign a notary log? 8 A. I don't recall ever signing one. 9 Q. Do you ever keep track of the documents that 10 you sign? 11 A. No. 12 Q. And I meant personally. 13 All right. 14 MS. HUELSMAN: Let's mark this as 15 Exhibit -- which one are we on? 16 COURT REPORTER: 22. 17 (Plaintiff Exhibit No. 22 was marked.) 18 A. (Reviewing document). 19 Q. Have you had a chance to look at the 20 document? 21 A. No. (Reviewing document). Okay, I've read 22 it. 23 Q. Okay, is that your signature on this 24 document? 25 A. On page 2 of the document is my signature.</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. Okay. Do you know how many -- on behalf of 2 how many entities you are authorized to sign documents? 3 A. I don't have the exact number in my head. 4 Q. Can you give me your best estimate? 5 A. More than 20. 6 Q. Okay. And how often on a daily basis do you 7 execute documents? 8 A. Once a day. 9 Q. And how many do you typically sign a day? 10 A. Less than three. 11 Q. Okay. And can you describe to me the process 12 by which you receive these documents for signature? 13 A. Sure. I am delivered, via an LPS employee 14 courier, a document, and I'm advised that it is to be 15 executed. The group that receives the document request 16 from the agent reviews the document per our protocols 17 and procedures. That document is then determined that 18 LPS can execute the document. 19 Based on the various signing authorities, it 20 will be determined that I will be the one authorized to 21 sign it. It will be delivered to me. I will review 22 the document. I will ensure that I do have signing 23 authority for the document. I will verify that the 24 document is what it says it is. Then while they're 25 watching me, I will execute the document. It is put</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Underneath "MORTGAGE ELECTRONIC REGISTRATION 2 SYSTEMS, INC. AS NOMINEE FOR ITS SUCCESSORS AND 3 ASSIGNS" ? 4 A. Correct. 5 Q. And which successors and assigns is MERS 6 acting as a nominee for? 7 A. Can you reclarify -- Can you restate that? 8 Q. Well, the -- the language above your 9 signature just says "MORTGAGE ELECTRIC REGISTRATION 10 SYSTEMS, INC. AS NOMINEE FOR ITS SUCCESSORS AND 11 ASSIGNS," but it doesn't -- 12 A. I'm sorry. I understand your question now. 13 I thought you were asking me who MERS's customers were. 14 I'm sorry. In this case, per this assignment, it's my 15 understanding that its successors and assigns would be 16 MERS and any entity MERS may turn into over time. 17 Q. Okay. And do you know James Morris? 18 A. I do. 19 Q. Is he an employee of LPS? 20 A. He is. 21 Q. And did he witness your signature on this 22 document? 23 A. I don't recall. 24 Q. Is he somebody in front of whom you regularly 25 sign documents?</p>

<p style="text-align: right;">Page 21</p> <p>1 A. Yes. 2 Q. So he's one of the couriers that brings them 3 to you? 4 A. No. 5 Q. No? 6 A. No. 7 Q. Do you go to his office to have him notarize 8 your signature? 9 A. No. 10 Q. So does he come to your office to witness 11 your signature? 12 A. He has. 13 Q. Is that a normal process and procedure? 14 A. No. 15 Q. Just sometimes he does and sometimes he 16 doesn't? 17 A. As far as my understanding. I mean, he does 18 -- I am aware that, you know, Jim Morris is, you know, 19 a registered notary. I know Jim Morris personally. I 20 see Jim daily. I can tell you that he was on a team 21 that witnesses document executions, but I can't say 22 whether or not he -- you know, I can't recall personal 23 knowledge whether he watched me sign this or not. 24 Q. Okay. So he does not work in your 25 department?</p>	<p style="text-align: right;">Page 23</p> <p>1 A. Yes. 2 Q. And are these the documents which you would 3 have reviewed and upon which you would have relied when 4 you signed Exhibit 22? 5 A. Partly. 6 Q. Partly. What else would you have relied 7 upon? 8 A. I believe -- I believe the execution of 9 Exhibit 22 I would have reviewed my signing authority 10 through a corporate resolution with MERS, not 11 necessarily with IndyMac. 12 Q. Okay. And, I'm sorry, I should -- This is 13 Exhibit 25. 14 (Plaintiff Exhibit No. 25 was marked.) 15 Q. And this document, as well, Exhibit 25, is it 16 also a document you've seen before and upon which you 17 would have relied? Signing the document question. 18 A. I've seen this document, yes. 19 MS. HUELSMAN: Okay. Thank you. I think 20 that's it. 21 MR. SPOONEMORE: Nothing further. He'll 22 read and sign. 23 24 (The deposition was terminated at 4:03 p.m.) 25</p>
<p style="text-align: right;">Page 22</p> <p>1 A. No. 2 Q. Okay. So he comes to your department for 3 purposes of bringing these documents and/or notarizing? 4 A. Yes. 5 Q. Okay. Are you the only person in your 6 department who has signing authority? 7 A. No. 8 Q. So there's other people in your department 9 who perform this function in addition to performing 10 their regular daily job duties, right? 11 A. This is part of their regular daily job 12 duties. 13 Q. Okay. And did you -- I think you told me 14 that you check and make certain that you have authority 15 to sign before you sign any document; is that correct? 16 A. Correct. 17 MS. HUELSMAN: And mark these as 18 Exhibits 23 and 24. 19 (Plaintiff Exhibit Nos. 23-24 were 20 marked.) 21 Q. Why don't you take a look at these documents, 22 please. 23 A. (Reviewing documents). Okay. 24 Q. So have you ever seen either one of these 25 documents before?</p>	

1 STATE OF MINNESOTA)
 : ss CERTIFICATE
 2 COUNTY OF HENNEPIN)

3
 4 I, Cindy L. Schultz, RMR, CRR, CLR, a notary public in
 and for the County of Hennepin, certify that I reported
 5 the deposition of SCOTT A. WALTER, who was first duly
 sworn by me, having been taken on January 13, 2010, at
 6 1400 Rand Tower, 527 Marquette Avenue, South,
 Minneapolis, Minnesota;

7 I further certify that I am not a relative or employee
 or attorney or counsel of any of the parties or a
 8 relative or employee of such attorney or counsel;

9 That I am not financially interested in the action and
 have no contract with the parties, attorneys, or
 10 persons with an interest in the action that affects or
 has a substantial tendency to affect my impartiality;
 11 that all parties who ordered copies have been charged
 at the same rate for such copies;

12 That the right to read and sign the deposition by the
 13 Witness was not waived.

14 IN WITNESS WHEREOF, I have hereunto set my hand and
 affixed my seal of office at Minneapolis, Minnesota,
 15 this 20th day of January 2010.

16

17

Cindy L. Schultz, RMR, CRR, CLR
 My commission expires 1/31/2010

18

19

20

21

22

23

24

25