

1. Daniel Adam Borsotti
10153 Riverside Drive
2. Suite 501
Toluca Lake, California
3. 661 312 3268
Claimant
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8. UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
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10. Daniel Adam Borsotti,) Case No.: CV 16-7603-FMO (JCx)
11. Claimant,)
12. vs.) CLAIMANT'S REPORT TO THE COURT
13. Quality Loan Services) IN RE MEET & CONFER 02-07-17;
14. Corporation) AFFIDAVIT
15. Defendants.)
16.

17. 1. TO THE COURT IN RE THE MEET & CONFER REQUIREMENT SCHEDULED
18. FOR FEBRUARY 7, 2017, 10:00AM:
19.

20. 2. Daniel Adam Borsotti [Claimant] telephonically met with
21. Matthew Learned, attorney for Defendant Quality Loan Services
22. Corporation.
23.

24. 3. Defendant's position was thus:

25. a. Defendant never set foot on the subject property,
26. therefore could not be held liable for any physical
27. trespass on said property.
b. Defendant is merely the agent of its customer, Nationstar
Mortgage. As such, Defendant is not required to be aware

1. of the validity of Nationstar as a holder of a debt, nor
2. the basis for assignment to Defendant.
3. c. Defendant is immune from liability because it is merely
4. following non judicial foreclosure per Civil Code § 2924.
5. d. Defendant is willing to consider any settlement offer.
6. e. Defendant has no knowledge of Notice of Default [NOD]
7. having been posted on the Internet.
8. f. Defendant will file a motion to dismiss.

9. 4. Plaintiff responds thus:

10. a. Defendant does not understand the meaning of trespass.¹
11. The definition of trespass is not limited to the act of
12. unauthorized entry on property. The First Amended Action
13. is positing trespass because of the injurious actions of
14. Defendant, other than unauthorized entry on property.
15. Whether or not there is an injury is a question to be
16. decided at trial.
17. b. Because Defendant is the agent of its principal,
18. Nationstar, it may not assert ignorance of the validity
19. of the foreclosure.
20. c. Because Defendant is the agent of its principal, the
21. agent may not assert immunity under color of law when
22. working in behalf of its principal.²
23. d. Claimant is likewise willing to consider any settlement
24. offer.
25. e. When requested, Defendant would not agree to remove
26. Internet information while this case is in progress.
27. f. Claimant asserts that Defendant should file its answer to
the First Amended Action. Claimant objects to
Defendant's motion to dismiss without proper adjudication
of the issues.³

18. ¹ a. Trespass – injury committed with force, actual or implied; immediate and not consequential; if property
19. involved, then property was in actual or constructive possession of plaintiff at time of injury. Koffler: Common
20. Law Pleading, 152 (1969)

21. b. Trespass on the Case – In practice. The form of action by which a person seeks to recover damages caused by
22. an injury unaccompanied with force or which results indirectly from the act of the defendant. It is more generally
23. called, simply, case. ² Bouvier's Law Dictionary 610 (1867)

24. c. Trespass and Trespass on the Case are supplementary to each other; and it may be said that, in general, Trespass
25. on the Case lies where no other theory or Form of Action is available, though it is sometimes concurrent with other
26. forms. Koffler: Common Law Pleading, 174 (1969)

27. ² California Civil Code 2332. As against a principal, both principal and agent are deemed to have notice of whatever either has
notice of, and ought, in good faith and the exercise of ordinary care and diligence, to communicate to others.

³ "A complaint may not be dismissed on motion if it states some sort of claim, baseless though it may eventually
prove to be, and inartistically as the complaint may be drawn. Therefore, under our rules, the plaintiff's allegations
that he is suing in 'criminal libel' should not be literally construed. [3] The complaint is hard to understand but this,
with nothing more, should not bring about a dismissal of the complaint, particularly is this true where a defendant is
not represented by counsel, and in view of rule 8 {f} of the rules of civil procedure, 28 U.S.C., which requires that all
pleadings shall be construed as to do substantial justice BURT VS. CITY OF NEW YORK, 2Cir., (1946) 156 F.2d
791. Accordingly, the complaint will not be dismissed for insufficiency. [4,5] Since the Federal Courts are courts of
limited jurisdiction, a plaintiff must always show in his complaint the grounds upon which that jurisdiction

1. 5. I have personal knowledge of the foregoing facts and am
2. competent to testify as to the truth of those facts if
3. called as a witness. I declare under penalty of perjury
4. that the foregoing facts are true and correct, and that
5. this affidavit was executed in Santa Clarita, California,
6. on February 10, 2017.

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8. by _____
9. Daniel Adam Borsotti
Attornatus Privatus

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23. depends." STEIN VS. BROTHERHOOD OF PAINTERS, DECORATORS, AND PAPER HANGERS OF
24. AMERICA, DCCDJ (1950), 11 F.R.D. 153.

25. "A complaint will not be dismissed for failure to state a claim, even though inartistically drawn and lacking in
26. allegations of essential facts, it cannot be said that under no circumstances will the party be able to recover." JOHN
EDWARD CROCKARD VS. PUBLISHERS, SATURDAY EVENING POST MAGAZINE OF PHILADELPHIA,
PA (1956) Fr Serv 29, 19 F.R.D. 511, DCED Pa 19 (1958)

27. "FRCP 8f: CONSTRUCTION OF pleadings. All pleadings shall be so construed as to do substantial justice."
DIOGUARDI VS. DURNING, 2 CIR., (1944) 139 F2d 774