

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA**

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**Eddie and Awilda Torres, Maria and Jorge Gonzalez, Liubert  
Machado and Ileana Acosta, Jose Ortega and Yairis Ramos,  
Simon and Rita Paredes, Simon Paredes, Fernando Ruiz,  
Kelvin Sanchez, Andres Varela-Pietri and Migdalia Bonilla,  
Moises Salazar, Joaquin and Guadalupe Garcia, Wilson Diaz,  
Carlos and Aimee Rostgaard, Sonia Collazo, Rene Aranzola  
and Belqui Diaz, Deisy Araujo, Luis Arias, Jr., Jose Zuluaga,  
Chiquinquira Barrios, Jose and Yolanda Gonzalez, Abelardo  
Alonso and Ariela Sollet, Gaspar Colon and Guadalupe Celi,  
Gaspar Colon and Guadalupe Celi , Paz A. Guevara, Gil A.  
Mosquea and Digna M. Mosquea, Ramon Payano and Angela  
Payano, Gabino C. Peralta and Arely M. Ramirez, Pablo  
Gonzalez, Javier Restrepo, Adonis Rodriguez, Ricardo  
Rosselini, John Ruiz, Farida Santos, Michael Santos, Plutarco  
Santos and Ramona Santos, Rafael Uribe, Vladimir Urtiaga  
and Elisa Alvarez, Pablo A. Zenteno and Maria J. Zenteno,  
Juan Jesus Acosta, Rodolfo Bejerano Blanco and Loraine  
Arenal Moreno, Carlos Ceden and Maria Villacis, Jessica  
Mariella Cuellar, Elier Martinez and Marisol Lopez, Aurelio  
Milian and Astrid Rondon, Hector Daniel Mojica, Marisol  
Penaranda and Gustavo Penaranda, Maria Tovar and Miguel  
Aguado, Fernando R. Calderon and Sandra Cristina Bravo,  
Norberto Garcia, Carolina Zalazar, Rafel Paz, Carlos Perez,  
Eddy and Vianka Moya, Jose Moncada and Evelyn Molina,  
Manuel Blanco and Lixis Quintosa, Pedro Pablo Collazo Cruz  
and Odalys Rodriguez, Jose and Luisa Espinel, Francisco and  
Elsa Cardenas, Quirino and Victoria Gonzalez and Sara  
Gonzalez, Lidicis Ocampo and Alberto Gonzalez, Franklin  
and Luisa Torres, Edelso Carmenates and Irania Llago,  
David Figueroa and Lazara Sosa, Teodosia Riveria Sandra  
Rivera Jones and Vernon C. Jones, Evarista Ruiz, Ruben and  
Betty Spitaleri, Hosmert Vergara, Javier Clavelo, Nancy  
Valencia and Nelson Ocampo, Yurisan Navarro,**

**Plaintiffs,**

**v.**

**Bank of America, N.A.,**

**Defendant.**

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**COMPLAINT AND  
DEMAND  
FOR JURY TRIAL**

NOW COMES the Plaintiffs, by and through undersigned counsel, complaining of Defendant, Bank of America, N.A. as follows:

### **PARTIES**

1. Each of the seventy (70) Plaintiffs are residents of Hillsborough, Pinellas, Pasco, Hernando, Polk, Manatee, Lee, Orange, Marion, or Highlands County.

2. Defendant, Bank of America, N.A. (hereinafter “BOA”), is a Delaware Corporation, with its principal office address located at 101 S. Tryon Street, Charlotte, North Carolina.

### **JURISDICTION and VENUE**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

4. The Court has personal jurisdiction of the Defendant under Fla. Stat. § 48.193.

5. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred here.

### **GENERAL FACTUAL ALLEGATIONS**

6. This is a story about corporate greed. Specifically, this Complaint chronicles the pervasive fraud exacted by BOA on homeowners seeking Home Affordable Modification Program (“HAMP”) modifications. Plaintiffs were victims of this fraud.

7. As background to the Defendant’s actions, in the fall of 2008, the United States Government responded to a serious crisis in financial market conditions. Bear Stearns and Lehman Brothers folded. Unemployment rose to 6.2 percent by September. That same month, the Treasury Department took Fannie Mae and Freddie Mac into conservatorship, the Federal

Reserve began an \$85 billion-dollar taxpayer-funded rescue of American International Group, (“AIG”) the FDIC took Washington Mutual (the nation's largest savings and loan bank) into receivership, and the S&P 500 index lost another ten percent (10%) of its already declining value. The biggest player in the then-worsening housing market crash, Countrywide Financial Corp., was bought out by BOA. The housing market crash itself gave rise to the specter of millions of Americans on a path to losing their homes, and to rising mortgage payment delinquencies.

8. In late 2008 and early 2009, the United States Government provided a total of \$45 billion dollars to BOA pursuant to the Troubled Asset Relief Program (“TARP”). It also extended to BOA an additional guarantee of over \$100 billion dollars. Having concluded that the costs of allowing BOA to fail were too high, the U.S. Government decided taxpayers would save the life of BOA, and they did.<sup>1</sup>

9. As the Congressional Oversight Panel (“Panel”) described it, “almost overnight” U.S. taxpayers provided to several large financial institutions, including BOA, an infusion of over \$200 billion dollars.<sup>2</sup> This massive bailout allowed the continued existence of several institutions including BOA.

10. After the Federal Government provided another \$10 billion dollars to BOA through an additional purchase of its preferred stock, the total Government exposure for BOA topped \$336 billion dollars in 2009, second only to Citigroup and well more than twice the

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<sup>1</sup> United States Department of Treasury, Troubled Asset Relief Program Transactions Report, (“Treasury Transaction Report”), available at: <https://www.treasury.gov/initiatives/financial-stability/reports/Pages/default.aspx>

<sup>2</sup> Congressional Oversight Panel, The Final Report of the Congressional Oversight Panel, March 16, 2011, (“Final Report”), available at [http://www.senate.gov/general/common/generic/COP\\_redirect.htm](http://www.senate.gov/general/common/generic/COP_redirect.htm).

exposure to any other institution.<sup>3</sup> These mammoth investments and exposure of taxpayer dollars to BOA unquestionably prevented its collapse and allowed the bank to return to profit.

**BOA Agrees to the Home Affordable Modification Program  
("HAMP") in Exchange for Billions from Taxpayers**

11. Because the stated purpose of the financial bailout was to help the American people and homeowners in particular, HAMP was implemented in March of 2009 to assist the millions of American homeowners facing foreclosure.

12. Knowing all eyes were on it, and on the billions of dollars it had been given by the government, on April 17, 2009, BOA, the nation's largest mortgage servicer, signed a "Servicer Participation Agreement" (the "Agreement" or "HAMP Agreement") with the Federal Government requiring it to use "reasonable efforts" to "effectuate any modification of a mortgage loan under the Program." See Sec. 2A **Exhibit 1**

13. BOA signed this Agreement in exchange for a commitment by the Federal Government to provide BOA hundreds of millions of taxpayer dollars for its promise and obligation to comprehensively provide HAMP screening for all homeowners serviced by BOA.<sup>4</sup>

14. In order to qualify under HAMP a homeowner must satisfy the following basic requirements:

- a. The mortgage originated on or before January 1, 2009;
- b. The home must be occupied, not vacant or condemned;
- c. The remaining balance on a single-unit home cannot exceed \$729,750;
- d. Default must be reasonably foreseeable, and the borrower is able to demonstrate financial hardship, including that the borrower has insufficient liquid assets to make the now-required monthly payments; and
- e. The borrower must have a monthly debt-to income ratio of more than 31% (i.e., the borrower's monthly mortgage payment must be greater than 31% of the borrower's gross monthly income).<sup>5</sup>

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<sup>3</sup> Final Report at 36.

<sup>4</sup> Treasury Transaction Report at 27.

<sup>5</sup> Available at <https://www.makinghomeaffordable.gov/steps/Pages/step-2-program-hamp.aspx>.

15. Once approved for HAMP modification, a homeowner who agrees to participate typically begins a three-month Trial Payment Period during which mortgage payments are made under the terms of the modification. If timely payments are made during those three months (i. e., not more than 30 days overdue during any month), the homeowner must be offered a permanent modification, with the terms in effect during the Trial Payment Period extended for 5 years.

16. After a homeowner completes a period of 5 years under the terms of the modification, lenders may increase the interest rate on the loan by 1% annually up to the prevailing Freddie Mac interest rate at the time the modification was made.

17. The Agreement indicates that BOA “shall perform the services for all mortgage loans it services, whether it services such mortgage loans for its own account or for the account of another party,” and “shall use reasonable efforts to remove all prohibitions or impediments to its authority, and use reasonable efforts to obtain all third-party consents and waivers that are required, by contract or in law, in order to effectuate any modification of a mortgage loan under the Program.” See section 2A, **Exhibit 1**. Servicers, including BOA received incentive payments to complete HAMP modifications and in March 2010, the incentive was increased to \$2,000.00.

**BOA Develops and Orchestrates a Fraudulent Scheme to Avoid  
the Requirements of HAMP to Increase BOA Profits**

18. Despite signing the Agreement and accepting billions of dollars, BOA knew conforming to the requirements of the Agreement in providing screening for HAMP applications and accepting homeowners who meet the requirements would cost the bank millions of dollars.

19. For that reason, instead of honoring its contract with the Federal Government to, in good faith, help as many distressed homeowners as possible, it made a calculated decision.

BOA decided to permit just enough HAMP modifications to occur to create a defense (however untenable) against Federal Government agencies, Congressional skeptics and the public that it was making best efforts to comply with its Agreement. Simultaneously, however, BOA chose to develop methodical business practices designed to intentionally prevent scores of eligible homeowners from becoming eligible or staying eligible for a permanent HAMP modification.

20. BOA and its agents never properly hired, trained, or equipped a workforce to genuinely address the scores of homeowner complaints and regulatory inquiries, and instead developed systems and procedures that deliberately obfuscated, misled, and otherwise deceived those homeowners and regulators, resulting in ineligibility through no fault of the homeowner.

21. To achieve the goal of frustrating HAMP applications, BOA contracted with Urban Lending Solutions, (“Urban”) to handle a variety of services relating to its participation in HAMP under the Agreement.

22. Urban is a privately held company based in Pittsburgh, providing services to the mortgage industry. On its website, Urban indicates it is an industry leader in providing “a wide variety of outsourced services to its clients including mortgage fulfillment services, home retention solutions, appraisals and valuation services, title and settlement services, document fulfillment, call center and collection services.”

23. However, the processes and procedures employed by BOA and Urban were diametrically opposed to the intent and purpose of HAMP and Urban agreed and conspired to frustrate HAMP applicants.

24. As part of its complex scheme to defraud the Federal Government and taxpayers,

BOA hired temp workers and folded Urban employees into its HAMP operations and gave these employees misleading BOA titles. To the outside world of homeowners and regulators, Urban's workforce appeared indistinguishable from BOA's own employees.

25. BOA used this workforce to solicit and direct homeowners to return documents, via FedEx to Urban, which received hundreds of thousands of FedEx packages from prospective HAMP participants. Urban hired scores of employees to accept and scan millions of pages of original documents, including homeowner financials, to be saved on the Urban Portal. Unfortunately for homeowners, as explained in this Complaint and declarations by former BOA employees, this repository was designed as a black hole for their documents.

**Former BOA Employees Sign Sworn Declarations  
Outlining the Fraudulent HAMP Scheme**

26. According to the February 22, 2017 Declaration of Rodrigo Heinle, (**Exhibit 2**) who worked for BOA in Charlotte, North Carolina from 2011 through 2012:

- a. Bank of America employed a common strategy of delaying HAMP applications. Delay was achieved using tactics including claiming that documents were incomplete and/or missing when they were not, or simply claiming files were "under review" when they were not.
- b. Homeowner applications were routinely shredded with no review by Bank of America and at times taken home by managers in order to conceal the fact they had been received by Bank of America.
- c. Upon the instruction of my manager Jamal Brown, and other managers, I deleted thousands of homeowner HAMP application files from Bank of America computer databases, as many as six thousand (6,000) in one day.

27. According to the June 5, 2013 Declaration of William E. Wilson, Jr., (**Exhibit 3**) who worked for BOA in Charlotte, North Carolina from 2010 through 2012:

- a. Individual BOA employees were given "approximately 400 HAMP files" at any given time.

- b. “Though BOA required that applicants immediately provide financial documents, often on short notice, the bank intentionally allowed these documents to sit for months without ever reviewing them.”
  - c. Bank of America instructed its employees to employ a common strategy of delaying HAMP applications, “claiming that documents were incomplete or missing when they were not, or simply claiming the file was ‘under review’ when it was not.” This delay tactic allowed BOA to falsely claim homeowners had not provided the required documentation when in fact, the homeowner had sent in documents months earlier, often multiple times and had made payments under a Trial Payment Period plan, but had not gotten a permanent modification or even a decision regarding their modification.
  - d. Next, BOA regularly employed a procedure called a “blitz.” “Approximately twice a month, BOA ordered case managers and underwriters ‘clean out’ the backlog of HAMP applications by denying any file in which the financial documents were more than 60 days old. These included files in which the homeowner had provided all required financial documents and fully complied with the terms of a Trial Period Plan” and were entitled to a HAMP modification.
  - e. “During a blitz, a single team would decline between 600 and 1,500 modification files at a time for no reason other than that the documents were more than 60 days old. BOA instructed its employees to enter into its computer systems a reason that would justify declining the modification to the Treasury Department. The justifications commonly included claiming that the homeowner had failed to return requested documents or had failed to make payments. In reality, these justifications were untrue.”
  - f. The “homeowners who did not receive the permanent HAMP modification they were entitled to, ultimately lost their homes to foreclosure.”
28. According to the May 23, 2013 Declaration of former BOA Senior Collector of

Loss Mitigation employee, Simone Gordon (**Exhibit 4**):

- a. Employees were given quotas for placing a specific number of accounts into foreclosure, including accounts in which the borrower fulfilled a HAMP Trial Period Plan. Employees who met quotas for placing “ten or more accounts into foreclosure in a given month received a \$500 bonus. Bank of America also gave employees gift cards to retail stores like Target or Bed Bath and Beyond as rewards for placing accounts into foreclosure.”
- b. And that Employees were closely monitored by BOA “Team Leaders and Site Leaders who walked the call room floor throughout the day wearing headsets that they would use to plug in and listen into a call without warning. Employees who



were caught not carrying out the delay strategies that BOA instituted were subject to discipline and termination.”

- c. “Employees who were caught admitting that BOA had received financial documents or that the borrower was actually entitled to a permanent loan modification were disciplined and often terminated without warning.”

29. According to the May 15, 2013 Declaration of former BOA collection employee,

Theresa Terrelonge (**Exhibit 5**):

- a. BOA “was trying to prevent as many homeowners as possible from obtaining permanent HAMP loan modifications while leading the public and the government to believe that it was making efforts to comply with HAMP. It was well known among managers and many employees that the overriding goal was to extend as few HAMP loan modifications to homeowners as possible.”
- b. BOA employees “were called into group meetings with our supervisors on a regular basis. The information we received in group meetings showed me that Bank of America’s deliberate practice was to string homeowners along with no intention of providing permanent modifications. We were instructed to inform every homeowner who called in that their file was “under review” - even where the computer system showed that the file had not been accessed in months or when the homeowner had been rejected for a modification.”
- c. BOA employees “were instructed to inform homeowners that modification documents were not received on time, not received at all, or that documents were missing, even when, in fact, all documents were received in full and on time.”
- d. She “witnessed employees and managers change and falsify information in the systems of record, and remove documents from homeowners’ files to make the account appear ineligible for a loan modification. This included falsifying electronic records so that the records would no longer show that the homeowner had sent in required documents or had made required payments. This was done so that the file could be closed, the homeowner’s effort to obtain a loan modification could be rejected, and the manager could meet Bank of America’s production goal for the given week or month.”
- e. She also observed that “Bank of America often avoided extending HAMP modifications by sending non- HAMP modifications to homeowners who had applied for a HAMP modification. These non- HAMP modifications were typically on worse terms for the homeowner than what they were eligible to receive under HAMP - but they were at higher interest rates and more profitable for Bank of America. I fielded dozens of calls from homeowners who had waited months for a HAMP modification and were confused, and often in tears, when they received a modification that appeared nothing like what they were led to

expect.”

30. According to the May 13, 2013 Declaration of former BOA underwriter Steven Cupples (**Exhibit 6**):

- a. “Bank of America retained outside vendors to manage the documents being sent to and received from borrowers applying for HAMP modifications. Urban Lending Solutions was one of the vendors tasked to receive and upload financial documents from borrowers.” Mr. Cupples “quickly realized that if the loan had documents that were sent to Urban, those documents would be scattered over various links in the computer systems. The documents were present, but they often could not be viewed using a single system. An underwriter would need to know to go to other systems such as IPORTAL, LMA, LMF, or HomeSaver to review documents the borrower had sent. Most underwriters did not know that they needed to look for documents in multiple systems and often assumed documents had not been sent. As a result, many borrowers were declined loan modifications they should have received.
- b. Mr. Cupples “observed that Bank of America reported to the Treasury Department and made public statements regarding the volume of loans it was successfully modifying, and the efforts it was making to catch up with the volume. Often this involved double counting loans that were in different stages of the modification process. It also involved counting loans that were entitled to modifications as having been modified - only to foreclose on those same loans later. It was well known among Bank of America employees that the numbers Bank of America was reporting to the government and to the public were simply not true.”

### **The Results of BOA’s Fraudulent Scheme on the Federal Government**

31. BOA’s fraudulent scheme worked as intended. A January 27, 2017 Inspector General Report to Congress found BOA “[w]rongfully denying homeowners admission into HAMP” and “denied 79% of all who applied for HAMP” concluding in its report to Congress that “[t]his should be unacceptable given that Bank of America has already received about \$2 billion from [the] Treasury for HAMP. **Exhibit 7.**

### **U.S. Department of Justice Sues BOA for the Fraudulent HAMP Scheme**

32. Servicers, including BOA received including BOA received incentive payments to complete HAMP modifications and in March 2010, the incentive was increased to \$2,000.00.

Accordingly, the incentive for BOA to fraudulently report completed HAMP modifications is clear.

33. In a lawsuit by the Federal Government against BOA in the Eastern District of New York, initiated by a whistleblower, BOA agreed to pay back \$1 billion under the Federal False Claims Act. *U.S. v. Bank of America NA et al.*, case number 1:11-cv-03270, (E.D.N.Y.) The August 2014 settlement also included BOA agreeing to “pay \$7 billion in relief to struggling homeowners, borrowers and communities affected by the bank’s conduct.”<sup>6</sup>

### **BOA’s Fraudulent Scheme of Unsuspecting Borrowers**

34. While mortgage modifications appear to be a win-win for everyone, in reality they create a loss for servicers. Under servicing contracts, mortgage servicers like BOA are paid their servicing fees and other fees charged to the borrower regardless of default or foreclosure. Further, the administration costs of reviewing modification applications pursuant to an investor/owner’s guidelines and requirements are enormous, especially in the face of HAMP. Since under the servicing agreement the servicer has authority to approve or decline a modification, the servicer can simply make the decision to avoid the administration costs and employ efforts to foreclose. The result is BOA decided to cut loses and collected its servicing fees and any other penalties upon foreclosure. But despite facilitating scores of homeowners to foreclosure, an enterprising BOA went even further. After signing the HAMP Servicing Agreement, BOA employed a scheme of falsely advising borrowers they had to be default on their mortgage and make trial payments (sometimes even initial payments) in order to qualify for a modification. Once those payments were received by BOA, they were applied to fraudulent

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<sup>6</sup> August 21, 2014 U.S Justice Department News Release dated August 21, 2014. (“Justice Department News Release”), available at <https://www.justice.gov/opa/pr/bank-america-pay-1665-billion-historic-justice-department-settlement-financial-fraud-leading>

inspection fees and other penalties and the borrower was vanquished to foreclosure as BOA had no intention of reviewing the borrower's HAMP application.

35. In order to frustrate the borrowers and disguise its fraudulent scheme, BOA instructed bank employees to falsely inform scores of borrowers their modification application was either "under review", incomplete or simply had not been received. These misrepresentations and fraudulent scheme caused scores of borrowers to send and resend their HAMP modification applications over and over under the false impression and hope of saving their home.

### **Class Action Claims Denied in Favor of Individual Claims**

36. The Multi District Litigation case *In re Bank of America Home Affordable Modification Program (HAMP) Contract Litigation*, M.D.L. No. 10-2193-RWZ was filed in 2011 and included class action cases from across the country. In denying class certification of the multi-district class, the Massachusetts District Court concluded:

This case demonstrates the vast frustration that many Americans have felt over the mismanagement of the HAMP modification process. Plaintiffs have plausibly alleged that Bank of America utterly failed to administer its HAMP modifications in a timely and efficient way; that in many cases it lost documents, or pretended it had not received them, or arbitrarily denied permanent modifications. *See* Third Am. Compl., ¶¶ 135-473 (describing the different experiences of each named plaintiff). Plaintiffs' claims may well be meritorious; but they rest on so many individual factual questions that they cannot sensibly be adjudicated on a classwide basis. Because plaintiffs have failed to meet the predominance and superiority requirements of Rule 23(b)(3), their motion for class certification (Docket # 208) is DENIED. *Goldman v. Bank of America, NA, et al.*, 2013 WL 4759649.

37. It is now up to individual borrowers to file individual lawsuits to recover damages resulting from the systematic fraudulent, unfair and deceptive practices of BOA with regard to HAMP.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 1, EDDIE TORRES & AWILDA TORRES**

38. On November 30, 1998, Plaintiffs, Eddie Torres and Awilda Torres, executed a mortgage and note for his home located at 5042 Green Key Road, New Port Richey, Florida in the amount of \$38,000.00 with regular monthly payments of \$620.22. The lender was AMNET MORTGAGE, INC., DBA AMERICAN MORTGAGE NETWORK OF FLORIDA. The Plaintiffs subsequently refinanced the property.

39. Subsequently, BOA began servicing the mortgage and the loan was assigned number 106166999.

40. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification

41. In July 2011, BOA loan representative George advised Plaintiffs by phone to refrain from making their regular mortgage payments. George specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative George was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors. Subsequently, BOA provided Mr. and Mrs. Torres a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

42. When Mr. and Mrs. Torres returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. and Mrs. Torres sent their HAMP application and supporting financial documents to BOA via U. S. Mail and Federal Express more than five (5) times.

43. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. and Mrs. Torres the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

44. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via U.S. Mail and Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

45. Plaintiffs did not receive any written verification the application was received, but BOA representative George verbally informed Plaintiffs they were approved and requested they make "trial payments" more than of \$800.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Torres to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

46. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

47. Relying on BOA's misrepresentations, Mr. and Mrs. Torres made three (3) payments of more than \$800.00 in 2011, hoping to save their home. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Torres concerning his HAMP application.

48. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

49. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. And Mrs. Torres' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

50. On May 18, 2016, Mr. and Mrs. Torres home was foreclosed by Bank of New York Mellon. As a result of the foreclosure, a judgment in the amount of \$123,648.06 was entered against Mr. and Mrs. Torres, \$48,648.06 more than their original mortgage. Mr. and Mrs. Torres moved out of their home in 2012.

51. Despite the fact that Mr. and Mrs. Torres lived in their home until 2011, BOA charged their account for a "Property Inspection" on fourteen (14) occasions from 2010 to 2011, all while they were living in the home. These inspection fees are impermissible under the *HUD*

*Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

52. BOA committed common law fraud upon Mr. and Mrs. Torres in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Torres to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. and Mrs. Torres relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

53. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Torres to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

54. Mr. and Mrs. Torres suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.



**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 2, MARIA GONZALEZ AND JORGE GONZALEZ**

55. On August 12, 1998, Plaintiffs, Maria Gonzalez and Jorge Gonzalez executed a mortgage and note for their home located at 4 Pine Course Court, Ocala, Florida in the amount of \$52,658.00 with regular monthly payments set at \$1,013.86. The lender was TAYLOR, BEAN & WHITAKER MORTGAGE COMPANY. The Plaintiffs subsequently refinanced the property.

56. Subsequently, BOA began servicing the mortgage and the loan was assigned number 23481401.

57. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

58. In February 2011, BOA loan representative Carl advised Plaintiffs by phone to refrain from making their regular mortgage payments. Carl specifically told Plaintiffs being past due and in default on their mortgage was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Carl was specifically instructed to make this false statement to Plaintiffs and other mortgagers by BOA managers and this practice was condoned by BOA's officers and directors.

59. Subsequently, BOA provided Mr. and Mrs. Gonzalez a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

60. When Mr. and Mrs. Gonzalez returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information

again and again. Mr. and Mrs. Gonzalez sent their HAMP application and supporting financial documents to BOA via mail more than three (3) times.

61. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. and Mrs. Gonzalez the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiff's by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

62. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via U.S. mail over and over, and as a result, incurred expenses. Further, relying on misrepresentations that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiff's in a position of foreclosure.

63. Plaintiffs did not receive any written verification the application was received, but BOA representative Carl verbally informed Plaintiffs they were approved and requested they make "trial payments" of more than \$1,200.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Gonzalez to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to them

account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

64. BOA further profited by using Plaintiff's HAMP application to make false claims for incentive payment to the United States Department of Treasury in the amount of \$1,000 or \$2,000.

65. Relying on BOA's misrepresentations, Mr. and Mrs. Gonzalez made six (6) payments of more than \$1200.00 in 2011, hoping to save her home.

66. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Gonzalez concerning their HAMP application.

67. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

68. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Gonzalez's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

69. On January 10, 2012, Mr. and Mrs. Gonzalez's home was foreclosed by US Bank. As a result of the foreclosure, a judgment in the amount of \$124,615.86 was entered against Mr. and Mrs. Gonzalez, \$71,957.86 more than their original mortgage. Mr. and Mrs. Gonzalez moved out of their home in 2013.

70. Despite the fact that Mr. and Mrs. Gonzalez lived in their home until 2012, BOA charged their account for a “Property Inspection” on seventeen (17) occasions from 2010 to 2015, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing* Guidelines and are but one example of the fraudulent charges for which BOA applied to Plaintiffs’ account and added to the judgment amount.

71. BOA committed common law fraud upon Mr. and Mrs. Gonzalez in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Gonzalez to rely on those statements. By making these misrepresentations, BOA profited by keeping Plaintiffs’ trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiff’s modification application. Mr. and Mrs. Gonzalez relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

72. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Gonzalez to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

73. Mr. and Mrs. Gonzalez suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as

damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 3, LIUBERT MACHADO AND ILEANA ACOSTA**

74. On January 5, 2006, Plaintiff, Lieubert Machado, and Ileana Acosta executed a mortgage and note for their home located at 7206 Chadsford Ct, Tampa, Florida in the amount of \$168,337.00 with regular monthly payments set at \$1,064.00. The lender was Market Street Mortgage Corporation.

75. Subsequently, BOA began servicing the mortgage and the loan was assigned number 117277916.

76. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

77. In January 2010, BOA loan representative, Mary, advised Plaintiff by phone to refrain from making his regular mortgage payments. Mary specifically told Plaintiffs being past due and in default on their mortgage was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Mary was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

78. Subsequently, BOA provided Mr. Machado a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

79. When Mr. Machado returned the application along with supporting financial documents, he was falsely informed by BOA employees the documents were not received, were

incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Machado sent their HAMP application and supporting financial documents to BOA via U.S. Mail more than three (3) times.

80. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Machado the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

81. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentations that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payments and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

82. Plaintiff did not receive any written verification the application was received, but a BOA representative, Mary, verbally informed Plaintiff they were approved and requested they make "trial payments" of more than \$1,250.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Machado to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to

send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

83. BOA further profited by using Plaintiff's HAMP application to make false claims for incentive payments to the United States Department of Treasury in the amount of \$1,000 or \$2,000

84. Relying on BOA's misrepresentations, Mr. Machado made three (3) payments of more than \$1,250.00 in 2012, hoping to save their home.

85. Despite making trial payments, Plaintiff never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Machado concerning their HAMP application.

86. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

87. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Machado trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

88. On March 25, 2013, Mr. Machado's home was foreclosed by Bank of America, NA. As a result of the foreclosure, a judgment in the amount of \$219,454.55 was entered against Mr. Machado, \$51,117.55 more than their original mortgage. Mr. Machado moved out of their home in 2014.

89. Despite the fact that Mr. Machado lived in their home until 2014, BOA charged their account for a "Property Inspection" on six (6) occasions from 2006 to 2014, all while they

were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

90. BOA committed common law fraud upon Mr. Machado in that it made false statements of fact it knew were false for the purpose of inducing Mr. Machado to rely on those statements. By making these misrepresentations, BOA profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiff's modification application. Mr. Machado relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

91. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Machado to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

92. Mr. Machado suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to



inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 4, JOSE ORTEGA AND YAIRIS RAMOS**

93. On January 22, 2008, Plaintiffs, Jose Ortega and Yairis Ramos, executed a mortgage and note for their home located at 9620 Simeon Dr., Land O' Lakes, Florida in the amount of \$162,122.00 with regular monthly payments set at \$1,137.49. The lender was Countrywide KB Home Loans, a Countrywide Mortgage Ventures, LLC series.

94. Subsequently, BOA began servicing the mortgage and the loan was assigned number 177456628.

95. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

96. In July 2010, BOA loan representative, Richard Smith, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Mr. Smith specifically told Plaintiffs being past due and in default on their mortgage was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Mr. Smith was specifically instructed to make this false statement to Plaintiffs and other mortgagors and this practice was condoned by BOA's officers and directors.

97. Subsequently, BOA provided Mr. Ortega and Ms. Ramos a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

98. When Mr. Ortega and Ms. Ramos returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not

received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. Ortega and Ms. Ramos sent their HAMP application and supporting financial documents to BOA via U. S. Mail and facsimile more than two (2) times.

99. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees false informed Mr. Ortega and Ms. Ramos the Bank had no information regarding his HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

100. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via U.S. Mail and facsimile over and over, and as a result, incurred expenses. Further, relying on misrepresentations that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

101. Plaintiffs did not receive any written verification the application was received, but a BOA representative Richard Smith verbally informed Plaintiffs they was approved and requested they make "trial payments" of \$1,350.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Ortega and Ms. Ramos to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their

account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

102. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United States Department of Treasury in the amount of \$1,000 or \$2,000.

103. Relying on BOA's misrepresentations, Mr. Ortega and Ms. Ramos made three (3) payments of \$1,350.00 in 2012 hoping to save his home.

104. Despite making his trial payments, Plaintiff never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Ortega and Ms. Ramos concerning his HAMP application.

105. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

106. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Ortega and Ms. Ramos trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

107. On September 12, 2013 Mr. Ortega and Ms. Ramos' home was foreclosed by BAC Home Loans Servicing, LP. As a result of the foreclosure, a judgment in the amount of \$216,318.66 was entered against Mr. Ortega and Ms. Ramos, \$54,196.66 more than his original mortgage. Mr. Ortega and Ms. Ramos moved out of their home in 2015.

108. Despite the fact that Mr. Ortega and Ms. Ramos lived in their home until 2015, BOA charged their account for a "Property Inspection" on eight (8) occasions, all while they

were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

109. BOA committed common law fraud upon Mr. Ortega and Ms. Ramos in that it made false statements of fact it knew were false for the purpose of inducing Mr. Ortega and Ms. Ramos to rely on those statements. By making these misrepresentations, BOA profited by keeping Plaintiffs' trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Ortega and Ms. Ramos relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

110. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Ortega and Ms. Ramos to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Ortega and Ms. Ramos relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

111. Mr. Ortega and Ms. Ramos suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for

which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 5, SIMON PAREDES and RITA PAREDES**

112. On March 5, 2004, Plaintiffs, Simon Paredes and Rita Paredes, executed a mortgage and note for their home located at 928 SE 18<sup>th</sup> Street, Cape Coral, Florida in the amount of \$172,800.00 with regular monthly payments set at \$1,169.31. The lender was Countrywide Home Loans.

113. Subsequently, BOA began servicing the mortgage and the loan was assigned number 49195877.

114. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted by phone BOA in 2009 requesting a HAMP modification.

115. In January 2010, BOA loan representative, Maria, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Maria specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Maria was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA's officers and directors.

116. Subsequently, BOA provided Mr. Paredes a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

117. When Mr. Paredes returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and

again. Mr. Paredes sent their HAMP application and supporting financial documents to BOA by hand delivery to a local branch and previously telephonically.

118. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. Paredes the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiff by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarding cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

119. Relying on misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents facsimile and U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentations that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payments and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

120. Plaintiffs did not receive any written verification the application was received, but a BOA representative Maria verbally informed Plaintiffs they were approved and requested they make "trial payments" of more than \$1,300.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Paredes to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

121. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United States Department of Treasury in the amount of \$1,000 or \$2,000.

122. Relying on BOA's misrepresentations, Mr. Paredes made three (3) payments of \$1,300.00 in 2010, hoping to save their home.

123. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Paredes concerning their HAMP application.

124. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

125. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Paredes trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

126. On September 24, 2010, Mr. and Mrs. Paredes, home was foreclosed by The Bank of New York Mellon. As a result of the foreclosure, a judgment in the amount of \$199,947.47 was entered against Mr. Paredes, \$27,147.47 more than their original mortgage. Mr. and Mrs. Paredes moved out of their home in 2011.

127. Despite the fact that Mr. and Mrs. Paredes lived in their home until 2010, BOA charged their account for a "Property Inspection" thirty-eight times (38) while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and

are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

128. BOA committed common law fraud upon Mr. Paredes in that it made false statements of fact it knew were false for the purpose of inducing Mr. Paredes to rely on those statements. By making these misrepresentations, BOA profited by keeping Plaintiffs' trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Paredes relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

129. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Paredes to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Paredes relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

130. Mr. Paredes suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.



**FACTUAL ALLEGATIONS  
PLAINTIFF # 6, SIMON PAREDES**

131. On May 9, 2003, Plaintiff, Simon Paredes executed a mortgage and note for his home located 4827 Marine Dr. Cape Coral, Lee County, Florida in the amount of \$116,250.00 with regular monthly payments set at \$629.52. The lender was Countrywide Home Loans, INC. The Plaintiff subsequently refinanced the property.

132. Subsequently, BOA began servicing the mortgage and the loan was assigned Number 32896579.

133. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA in 2009 requesting a HAMP modification.

134. In December 2009, BOA loan representative, Maria, advised Plaintiff to refrain from making his regular mortgage payments. Maria specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Maria was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

135. Subsequently, BOA provided Mr. Paredes a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

136. When Mr. Paredes returned the application along with supporting financial documents, he was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Paredes sent his HAMP application and supporting financial documents to BOA via facsimile and U. S. Mail more than four (4) times.

137. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Paredes the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

138. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via facsimile, Federal Express and U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

139. Plaintiff did not receive any written verification the application was received, but a BOA representative verbally informed Plaintiffs they were approved and requested he make "trial payments" of more than \$1,200.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Paredes to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

140. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

141. Relying on BOA's misrepresentations, Mr. Paredes made three (3) payments of more than \$1,200.00 in 2010, hoping to save his home.

142. Despite making his trial payments, Plaintiff never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Paredes concerning his HAMP application.

143. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrower's HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

144. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Paredes trial payments in an unapplied account and never applied the amounts to their account or gave him credit for the payments, but simply kept the funds for profit.

145. On May 7, 2010, Mr. Paredes' home was foreclosed by Bank of New York, Mellon. As a result of the foreclosure, a judgment in the amount of \$126,379.93 was entered against Mr. Paredes, \$10,129.93 more than their original mortgage. Mr. Paredes moved out of his home in 2012.

146. Despite the fact that Mr. Paredes lived in their home until 2012, BOA charged his account for a "Property Inspection" on twenty-nine (29) occasions from 2008 to 2012, all while he was living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are fees are but one example of the fraudulent charges for which BOA applied to

Plaintiff's account and added to the judgment amount. Therefore, BOA directly profited from the misrepresentations made to Mr. Paredes.

147. BOA committed common law fraud upon Mr. Paredes in that it made false statements of fact it knew were false for the purpose of inducing Mr. Paredes to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Paredes relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

148. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Paredes to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Paredes relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

149. Mr. Paredes suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFF # 7, FERNANDO R. RUIZ**

150. On December 13, 2005, Plaintiff, Fernando R. Ruiz, and Maria V. Ruiz executed a mortgage and note for their home located at 2900 Girvan Dr. Land O' Lakes, Florida in the amount of \$139,100.00 and \$34,750.00 with regular monthly payments totaling \$1,769.00. The lender was America's Wholesale Lender. Plaintiff subsequently refinanced the subject property.

151. Subsequently, BOA began servicing the mortgage and the loan was assigned number 74359884.

152. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in in 2010 requesting a HAMP modification.

153. In February 2010, BOA loan representative, Sharika, advised Plaintiff by phone to refrain from making his regular mortgage payments. Sharika specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Sharika was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

154. Subsequently, BOA provided Mr. Ruiz a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

155. When Mr. Ruiz returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Ruiz sent his HAMP application and supporting financial documents to BOA via Federal Express more than three (3) times.

156. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Ruiz the Bank had no information regarding his HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

157. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

158. Plaintiff did not receive any written verification the application was received, but BOA representative Sharika verbally informed Plaintiff he was approved and requested he make "trial payments" of more than \$1,800.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Ruiz to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to his account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

159. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

160. Relying on BOA's misrepresentations, Mr. Ruiz made three (3) payments of more than \$1,800.00 in 2011, hoping to save his home.

161. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Ruiz concerning their HAMP application.

162. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

163. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Ruiz trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

164. On May 1, 2012, Mr. Ruiz's home was foreclosed by Wells Fargo. As a result of the foreclosure, a judgment in the amount of \$301,526.92 was entered against Mr. Ruiz, \$127,676.92 more than his original mortgage. Mr. Ruiz moved out of his home in 2013.

165. Despite the fact that Mr. Ruiz lived in his home until 2013, BOA charged his account for a "Property Inspection" all while he was living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

166. BOA committed common law fraud upon Mr. Ruiz in that it made false statements of fact it knew were false for the purpose of inducing Mr. Ruiz to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Ruiz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

167. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Ruiz to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Ruiz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

168. Mr. Ruiz suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home ,as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.



**FACTUAL ALLEGATIONS  
PLAINTIFFS # 8, KELVIN SANCHEZ**

169. On August 16, 2007, Plaintiff, Kelvin Sanchez executed a mortgage and note for his home located at 5415 Baldock Avenue, Spring Hill, Florida in the amount of \$150,720.00 with regular monthly payments set at \$1,141.55. The lender was Bank of America, NA.

170. Subsequently, BOA began servicing the mortgage and the loan was assigned number 871717277.

171. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

172. In March 2011, BOA loan representative, Jose Gonzalez, advised Plaintiff by phone to refrain from making their regular mortgage payments. Mr. Gonzalez specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Mr. Gonzalez was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

173. Subsequently, BOA provided Mr. Sanchez a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

174. When Mr. Sanchez returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Sanchez sent his HAMP application and supporting financial documents to BOA via mail more than two (2) times.

175. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Sanchez the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

176. Relying on the misrepresentations by BOA employees, Plaintiff mailed by way of US Mail, his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

177. Plaintiff did not receive any written verification the application was received, but a BOA representative Mr. Gonzalez verbally informed Plaintiff he was approved and requested he make "trial payments" of more than \$1,100.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Sanchez to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

178. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

179. Relying on BOA's misrepresentations, Mr. Sanchez made three (3) payments of more than \$1,100.00 in 2011, hoping to save his home.

180. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Sanchez concerning his HAMP application.

181. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

182. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Sanchez trial payments in an unapplied account and never applied the amounts to his account or gave his credit for the payments, but simply kept the funds for profit.

183. On July 11, 2012, Mr. Sanchez's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$175,595.86 was entered against Mr. Sanchez, \$24,875.86 more than their original mortgage. Mr. Sanchez moved out of his home in 2012.

184. Despite the fact that Mr. Sanchez lived in his home, until 2012, BOA charged their account for a "Property Inspection" thirteen (13) times from 2011 to 2012, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

185. BOA committed common law fraud upon Mr. Sanchez that it made false statements of fact it knew were false for the purpose of inducing Mr. Sanchez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Sanchez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

186. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Sanchez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Sanchez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

187. Mr. Sanchez suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 9, ANDRES VARELA-PIETRI AND MIGDALIA BONILLA**

188. On February 26, 2003, Plaintiffs, Andres Varela-Pietri and Migdalia Bonilla executed a mortgage and note for their home located at 6843 Cabernet Crossing, Lakeland,

Florida in the amount of \$113,294 with regular monthly payments set at \$1,003.90. The lender was Huntington National Bank. The Plaintiffs subsequently refinanced the property.

189. Subsequently, BOA began servicing the mortgage and the loan was assigned number 148654113.

190. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

191. In July 2009, BOA loan representative, Carolina, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Carolina specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Carolina was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

192. Subsequently, BOA provided Mr. Varela-Pietri and Ms. Bonilla a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

193. When Mr. Varela-Pietri and Ms. Bonilla returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. Varela-Pietri and Ms. Bonilla sent their HAMP application and supporting financial documents to BOA via mail more than five (5) times.

194. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times,

BOA employees falsely informed Mr. Varela-Pietri and Ms. Bonilla the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

195. Relying on the misrepresentations by BOA employees, Plaintiffs hand delivered to a local branch, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

196. Plaintiffs did not receive any written verification the application was received, but BOA representative Carolina verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$1,200.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Varela-Pietri and Ms. Bonilla to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

197. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

198. Relying on BOA's misrepresentations, Mr. Varela-Pietri and Ms. Bonilla made three (3) payments of more than \$1,200.00 in 2010, hoping to save their home.

199. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Varela-Pietri and Ms. Bonilla concerning their HAMP application.

200. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

201. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Varela-Pietri and Ms. Bonilla trial payments in an unapplied account and never applied the amounts to their account or gave him credit for the payments, but simply kept the funds for profit.

202. On July 14, 2010, Mr. Varela-Pietri and Ms. Bonilla's home was foreclosed by BAC Home Loans Servicing, L.P. As a result of the foreclosure, a judgment in the amount of \$180,706.60 was entered against Mr. Varela-Pietri and Ms. Bonilla, \$67,412.60 more than their original mortgage. Mr. Varela-Pietri and Ms. Bonilla moved out of their home in 2012 after protracted litigation and appeals.

203. BOA committed common law fraud upon Mr. Varela-Pietri and Ms. Bonilla in that it made false statements of fact it knew were false for the purpose of inducing Mr. Varela-Pietri and Ms. Bonilla to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent

inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Varela-Pietri and Ms. Bonilla relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

204. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Varela-Pietri and Ms. Bonilla to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Varela-Pietri and Ms. Bonilla relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

205. Mr. Varela-Pietri and Ms. Bonilla suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 10, MOISES SALAZAR**

206. On April 11, 2007, Plaintiff, Moises Salazar executed a mortgage and note for his home located at 7867 Sugar Bend Drive, Orlando, Orange County Florida in the amount of \$254,300.00 with an additional home equity line of credit totaling another \$63,600.00 with regular monthly payments set at \$1,509.91. The lender was Countrywide Bank, FSB.

207. Subsequently, BOA began servicing the mortgage and the loan was assigned



number 157982020.

208. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

209. In July 2011, BOA loan representative, Jorge, advised Plaintiff by phone to refrain from making his regular mortgage payments. Jorge specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Jorge was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

210. Subsequently, BOA provided Mr. Salazar a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

211. When Mr. Salazar returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Salazar sent his HAMP application and supporting financial documents to BOA via fax more than four (4) times.

212. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Salazar the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as

well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

213. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch and sent via facsimile, their HAMP application and financial documents over and over as a result of misrepresentations by BOA employees, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

214. Plaintiff did not receive any written verification the application was received, but BOA representative Jorge verbally informed Plaintiff he was approved and requested he make “trial payments” of more than \$3,000.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Salazar to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to his account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

215. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

216. Relying on BOA’s misrepresentations, Mr. Salazar made three (3) payments of more than \$3,000.00 in 2012, hoping to save his home.

217. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts,

BOA refused to respond to Mr. Salazar concerning their HAMP application.

218. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

219. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Salazar's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

220. On August 19, 2014, Mr. Salazar's home was foreclosed by Bank of America, N.A. As a result of the foreclosure, a judgment in the amount of \$363,412.22 was entered against Mr. Salazar, \$45,512.22 more than his original mortgage. Mr. Salazar moved out of his home in 2014.

221. BOA committed common law fraud upon Mr. Salazar in that it made false statements of fact it knew were false for the purpose of inducing Mr. Salazar to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Salazar relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

222. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Salazar to cover and

conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Salazar relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

223. Mr. Salazar suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 11, JOAQUIN AND GUADALUPE GARCIA**

224. On August 4, 2005, Plaintiffs, Joaquin Garcia and Guadalupe Garcia executed a mortgage and note for their home located at 415 Acacia Tree Way, Kissimmee, Florida in the amount of \$243,000 with regular monthly payments set at \$1,814.78. The lender was Countrywide Bank, a Division of Treasury Bank, N.A.

225. Subsequently, BOA began servicing the mortgage and the loan was assigned number 110348629.

226. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

227. In August 2010, BOA loan representatives, Sherri Johnson and Estela Gomez advised Plaintiffs by phone to refrain from making their regular mortgage payments. Sherri Johnson and Estela Gomez specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and

specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representatives Sherri Johnson and Estella Gomez was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

228. Subsequently, BOA provided Mr. and Mrs. Garcia a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

229. When Mr. and Mrs. Garcia returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. and Mrs. Garcia sent their HAMP application and supporting financial documents to BOA via mail more than five (5) times.

230. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. and Mrs. Garcia the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

231. Relying on the misrepresentations by BOA employees, Plaintiffs hand delivered to a local branch, their HAMP application and financial documents over and over as a result of misrepresentations by BOA employees, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs

refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

232. Plaintiffs did not receive any written verification the application was received, but BOA Representatives, Sherrie Johnson and Estela Gomez, verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$1,371.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. and Mrs. Garcia to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

233. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

234. Relying on BOA’s misrepresentations, Mr. and Mrs. Garcia made three (3) payments of more than \$1,371.00 in 2012, hoping to save their home.

235. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Garcia concerning their HAMP application.

236. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia*

*Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

237. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Garcia's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

238. On June 24, 2014, Mr. and Mrs. Garcia's home was foreclosed by Bank of America, N.A. As a result of the foreclosure, a judgment in the amount of \$372,591.00 was entered against Mr. and Mrs. Garcia, \$100,591.00 more than their original mortgage. Mr. and Mrs. Garcia moved out of their home in 2016.

239. BOA committed common law fraud upon Mr. and Mrs. Garcia in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Garcia to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. and Mrs. Garcia relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

240. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Garcia to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Garcia relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

241. Mr. and Mrs. Garcia suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 12, WILSON A. DIAZ**

242. On November 28, 2005, Plaintiff, Wilson A. Diaz executed a mortgage and note for his home located at 9801 55 Street N., Pinellas Park, Florida in the amount of \$173,500.00 with regular monthly payments set at \$1,627.39. The lender was HomeBanc Mortgage Corporation.

243. Subsequently, BOA began servicing the mortgage and the loan was assigned number 16635574.

244. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

245. In May 2011, BOA loan representatives, Marcia and John, advised Plaintiff by phone to refrain from making his regular mortgage payments. Marcia and John specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representatives Maria and John was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.



246. Subsequently, BOA provided Mr. Diaz a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

247. When Mr. Diaz returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Diaz sent his HAMP application and supporting financial documents to BOA via fax, mail, in person and using third party assistance more than five (5) times.

248. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Diaz the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

249. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch, his HAMP application and financial documents, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

250. Plaintiff did not receive any written verification the application was received, but BOA Representatives, Marcia and John, verbally informed Plaintiff he was approved and requested he make "trial payments" of more than \$1,800.00 pursuant to the Federal

Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Diaz to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to his account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

251. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

252. Relying on BOA's misrepresentations, Mr. Diaz made three (3) payments of more than \$1,800.00 in 2011, hoping to save his home.

253. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Diaz concerning their HAMP application.

254. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

255. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Diaz's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

256. On December 18, 2012, Mr. Diaz' home was foreclosed by BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP. As a result of the foreclosure, a

judgment in the amount of \$243,052.99 was entered against Mr. Diaz, \$69,552.99 more than his original mortgage. Mr. Diaz moved out of his home in 2013.

257. BOA committed common law fraud upon Mr. Diaz in that it made false statements of fact it knew were false for the purpose of inducing Mr. Diaz to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Diaz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

258. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Diaz to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Diaz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

259. Mr. Diaz suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 13, CARLOS M. AND AIMEE ROSTGAARD**

260. On June 1, 2007, Plaintiffs, Carlos M. and Aimee Rostgaard executed a mortgage and note for their home located at 9110 Post Oak Court, Tampa, Florida in the amount of \$172,900.00 with regular monthly payments set at \$1,401.32. The lender was First Magnus Financial Corporation.

261. Subsequently, BOA began servicing the mortgage and the loan was assigned number 162511331.

262. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA in 2009 requesting a HAMP modification.

263. In April 2010, BOA loan representative, Carol, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Carol specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Carol was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

264. Subsequently, BOA provided Mr. and Mrs. Rostgaard a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

265. When Mr. and Mrs. Rostgaard returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. and Mrs. Rostgaard sent their HAMP application and supporting financial

documents to BOA via mail more than five (5) times.

266. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. and Mrs. Rostgaard the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

267. Relying on the misrepresentations by BOA employees, Plaintiffs delivered by regular US Mail, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

268. Plaintiffs did not receive any written verification the application was received, but BOA Representative Carol verbally informed Plaintiffs they were approved and requested they make "trial payments" of \$1,030.23 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Rostgaard to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

269. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

270. Relying on BOA's misrepresentations, Mr. and Mrs. Rostgaard made three (3) payments of more than \$1,000.00 in 2010, hoping to save their home.

271. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Rostgaard concerning their HAMP application.

272. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

273. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Rostgaard's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

274. On May 29, 2014, Mr. and Mrs. Rostgaard's home was foreclosed by Bank of America, N.A. f/k/a Country Wide Home Loans Servicing, L.P. As a result of the foreclosure, a judgment in the amount of \$262,680.34 was entered against Mr. and Mrs. Rostgaard, \$89,780.34 more than their original mortgage. Mr. and Mrs. Rostgaard moved out of their home in 2014.

275. BOA committed common law fraud upon Mr. and Mrs. Rostgaard in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Rostgaard to

rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. and Mrs. Rostgaard relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

276. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Rostgaard to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Rostgaard relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

277. Mr. and Mrs. Rostgaard suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

### **FACTUAL ALLEGATIONS PLAINTIFFS # 14, SONIA COLLAZO**

278. On January 27, 2009, Plaintiff, Sonia Collazo, executed a mortgage and note for her home located at 4516 Parkway Blvd., Land O'Lakes, Florida in the amount of \$157,712.00 with regular monthly payments set at \$1,181.75. The lender was United Pacific Mortgage.

279. Subsequently, BOA began servicing the mortgage and the loan was assigned number 197841807.

280. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

281. In August 2010, BOA loan representative, Cheryl Johnson, advised Plaintiff to refrain from making her regular mortgage payments. Cheryl Johnson specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Cheryl Johnson was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

282. Subsequently, BOA provided Ms. Collazo a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

283. When Ms. Collazo returned the application along with supporting financial documents, she was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Ms. Collazo sent her HAMP application and supporting financial documents to BOA via fax, mail and FedEx more than four (4) times.

284. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees informed falsely Ms. Collazo the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was



ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

285. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch, her HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

286. Plaintiff did not receive any written verification the application was received, but BOA Representative Cheryl Johnson verbally informed Plaintiff she was approved and requested she make “trial payments” of \$1,400.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Ms. Collazo to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

287. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

288. Relying on BOA’s misrepresentations, Ms. Collazo made three (3) payments of more than \$1,400.00 in 2011, hoping to save her home.

289. Despite making her trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite her efforts,

BOA refused to respond to Ms. Collazo concerning their HAMP application.

290. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

291. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Ms. Collazo trial payments in an unapplied account and never applied the amounts to her account or gave her credit for the payments, but simply kept the funds for profit.

292. On September 3, 2013, Ms. Collazo's home was foreclosed by Bank of America, N.A. As a result of the foreclosure, a judgment in the amount of \$205,839.37 was entered against Ms. Collazo, \$48,127.37 more than her original mortgage. Ms. Collazo moved out of her home in 2014.

293. BOA committed common law fraud upon Ms. Collazo in that it made false statements of fact it knew were false for the purpose of inducing Ms. Collazo to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Ms. Collazo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

294. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Ms. Collazo to cover and

conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Ms. Collazo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

295. Ms. Collazo suffered damages including but not limited to the costs for sending the HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of her home and the equity in that home, and the loss of future equity in the home, as well as damage to her credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 15, RENE ARANZOLA AND BELQUI DIAZ**

296. On April 16, 2007, Plaintiffs, Rene Aranzola and Belqui Diaz, executed a mortgage and note for their home located at 7210 N. Manhattan Avenue, Unit 2310, Tampa, Florida in the amount of \$127, 900.00 with regular monthly payments set at \$804.47. The lender was Bank of America, N.A.

297. Subsequently, BOA began servicing the mortgage and the loan was assigned number 871272002.

298. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

299. In February 2011, BOA loan representative, Rosaura Diaz, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Rosaura Diaz specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for

foreclosure. BOA representative Rosaura Diaz was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

300. Subsequently, BOA provided Mr. Aranzola and Mrs. Diaz a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

301. When Mr. Aranzola and Mrs. Diaz returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. Aranzola and Mrs. Diaz sent their HAMP application and supporting financial documents to BOA via mail more than three (3) times.

302. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. Aranzola and Mrs. Diaz the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

303. Relying on the misrepresentations by BOA employees, Plaintiffs mailed, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage

modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

304. Plaintiffs did not receive any written verification the application was received, but BOA Representative Rosaura Diaz verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$950.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Aranzola and Mrs. Diaz to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

305. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

306. Relying on BOA’s misrepresentations, Mr. Aranzola and Mrs. Diaz made three (3) payments of more than \$950.00 in 2011, hoping to save their home.

307. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Aranzola and Mrs. Diaz concerning their HAMP application.

308. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia*

*Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

309. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Aranzola and Mrs. Diaz' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

310. On February 16, 2012, Mr. Aranzola and Mrs. Diaz' home was foreclosed by Bank of America, N.A. As a result of the foreclosure, a judgment in the amount of \$160,730.09 was entered against Mr. Aranzola and Mrs. Diaz, \$32,830.09 more than their original mortgage. Mr. Aranzola and Mrs. Diaz moved out of their home in 2012.

311. BOA committed common law fraud upon Mr. Aranzola and Mrs. Diaz in that it made false statements of fact it knew were false for the purpose of inducing Mr. Aranzola and Mrs. Diaz to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Aranzola and Mrs. Diaz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

312. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Aranzola and Mrs. Diaz to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Aranzola and Mrs. Diaz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

313. Mr. Aranzola and Mrs. Diaz suffered damages including but not limited to the costs for sending the HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 16, DEISY ARAUJO**

314. On April 5, 2006, Plaintiff, Deisy Araujo, executed a mortgage and note for her home located at 8505 Ehren Cut Off, Land O'Lakes, Florida in the amount of \$220,000.00 with regular monthly payments set at \$1,463.67. The lender was America's Wholesale Lender.

315. Subsequently, BOA began servicing the mortgage and the loan was assigned number 133888432.

316. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

317. In April 2009, BOA loan representative, Lili, advised Plaintiff by phone to refrain from making her regular mortgage payments. Lili specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Lili was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

318. Subsequently, BOA provided Mrs. Araujo a HAMP application and she properly completed the application and returned it to BOA with supporting financial documents.

319. When Mrs. Araujo returned the application along with supporting financial documents, she was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mrs. Araujo sent her HAMP application and supporting financial documents to BOA via fax, mail and in person more than five (5) times.

320. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mrs. Araujo the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

321. Relying on misrepresentations by BOA employees, Plaintiff delivered her HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

322. Plaintiff did not receive any written verification the application was received, but BOA Representative Lili verbally informed Plaintiff she was approved and requested she make "trial payments" of \$1,500.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mrs. Araujo to make payments to BOA, not for the purpose of



compliance with HAMP or processing her HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

323. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

324. Relying on BOA's misrepresentations, Mrs. Araujo made three (3) payments of more than \$1,500.00 in 2009, hoping to save her home.

325. Despite making her trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite her efforts, BOA refused to respond to Mrs. Araujo concerning her HAMP application.

326. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

327. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mrs. Araujo trial payments in an unapplied account and never applied the amounts to her account or gave her credit for the payments, but simply kept the funds for profit.

328. On May 19, 2009, Mrs. Araujo's home was foreclosed by Country Wide Home Loans, Inc. As a result of the foreclosure, a judgment in the amount of \$240,561.78 was entered against Mrs. Araujo, \$20,561.78 more than her original mortgage. Mrs. Araujo moved out of her home in 2012.

329. BOA committed common law fraud upon Mrs. Araujo in that it made false

statements of fact it knew were false for the purpose of inducing Mrs. Araujo to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mrs. Araujo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

330. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mrs. Araujo to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mrs. Araujo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

331. Mrs. Araujo suffered damages including but not limited to the costs for sending the HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of her home and the equity in that home, and the loss of future equity in the home, as well as damage to her credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 17, LUIS O. ARIAS, JR.**

332. On August 21, 2007, Plaintiff, Luis O. Arias, Jr., executed a mortgage and note for his home located at 4011 78<sup>th</sup> Street 31B, Bradenton, Florida in the amount of \$121,500.00

with regular monthly payments set at \$1,044.67. The lender was Bank of America, N.A.

333. Subsequently, BOA began servicing the mortgage and the loan was assigned number 871412785.

334. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in March 2009 requesting a HAMP modification.

335. In June 2009 BOA loan representative, Carol, advised Plaintiff by phone to refrain from making his regular mortgage payments. Carol specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Carol was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA manager and this practice was condoned by BOA's officers and directors.

336. Subsequently, BOA provided Mr. Arias a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

337. When Mr. Arias returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Arias provided his HAMP application and supporting financial documents to BOA in person more than three (3) times.

338. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Arias the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the

specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

339. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch, his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

340. Plaintiff did not receive any written verification the application was received, but BOA Representative Carol verbally informed Plaintiff he was approved and requested he make “trial payments” of over \$900.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Arias to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

341. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

342. Relying on BOA’s misrepresentations, Mr. Arias made four (4) payments of more than \$900.00 in 2009, hoping to save his home.

343. Despite making his trial payments, Plaintiff never received written confirmation

of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Arias concerning his HAMP application.

344. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

345. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Arias' trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

346. On October 1, 2009, Mr. Arias' home was foreclosed by Bank of America, N.A. As a result of the foreclosure, a judgment in the amount of \$139,027.02 was entered against Mr. Arias, \$17,527.02 more than his original mortgage. Mr. Arias moved out of his home in 2009.

347. BOA committed common law fraud upon Mr. Arias in that it made false statements of fact it knew were false for the purpose of inducing Mr. Arias to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Arias relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

348. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Arias to cover and conceal

the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Arias relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

349. Mr. Arias suffered damages including but not limited to the costs for sending the HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 18, JOSE G. ZULUAGA**

350. On June 30, 2004, Plaintiff, Jose G. Zuluaga, executed a mortgage and note for his home located at 18165 Portside Street, Tampa, Florida in the amount of \$139,867.00 with regular monthly payments set at \$904.20. The lender was Universal American Mortgage Company, LLC.

351. Subsequently, BOA began servicing the mortgage and the loan was assigned number 59959419.

352. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

353. In October 2011, BOA loan representatives, Christy W. Lassy and Kendrick Phillips, advised Plaintiff by phone to refrain from making his regular mortgage payments. Christy W. Lassy and Kendrick Phillips specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representatives Christy W. Lassy and Kendrick Phillips was specifically instructed to make this false statement to

Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

354. Subsequently, BOA provided Mr. Zuluaga a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

355. When Mr. Zuluaga returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Zuluaga sent his HAMP application and supporting financial documents to BOA more than three (3) times.

356. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Zuluaga the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

357. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch, his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

358. Plaintiff did not receive any written verification the application was received, but BOA Representatives Christy W. Lassy and Kendrick Phillips verbally informed Plaintiff he was approved and requested he make “trial payments” of \$1,200 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Zuluaga to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

359. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

360. Relying on BOA’s misrepresentations, Mr. Zuluaga made three (3) payments of more than \$1,200 in 2011, hoping to save his home.

361. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Zuluaga concerning his HAMP application.

362. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

363. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Zuluaga’s trial payments in an unapplied account and never applied the amounts to his



account or gave him credit for the payments, but simply kept the funds for profit.

364. On January 20, 2015, Mr. Zuluaga's home was foreclosed by Bank of America, N.A. As a result of the foreclosure, a judgment in the amount of \$179,444.31 was entered against Mr. Zuluaga, \$39,577.31 more than his original mortgage. Mr. Zuluaga moved out of his home in 2012.

365. BOA committed common law fraud upon Mr. Zuluaga in that it made false statements of fact it knew were false for the purpose of inducing Mr. Zuluaga to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs' trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Zuluaga relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

366. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Zuluaga to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Zuluaga relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

367. Mr. Zuluaga suffered damages including but not limited to the costs for sending the HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and

the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 19, CHIQUINQUIRA BARRIOS**

368. On February 6, 2007, Plaintiff, Chiquinquir Barrios, executed two mortgages and a note for her home located at 1129 Big Creek Drive, Wesley Chapel, Florida in the amount of \$359,900.00 with regular monthly payments set at \$1,901.10. The lender was America's Wholesale Lender.

369. Subsequently, BOA began servicing the mortgage and the loan was assigned number 158525019.

370. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

371. In December 2010, BOA loan representative, Alejandra, advised Plaintiff by phone to refrain from making her regular mortgage payments. Alejandra specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Alejandra was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

372. Subsequently, BOA provided Ms. Barrios a HAMP application and she properly completed the application and returned it to BOA with supporting financial documents.

373. When Ms. Barrios returned the application along with supporting financial documents, she was falsely informed by BOA employees that the documents were not received,

were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Ms. Barrios sent her HAMP application and supporting financial documents to BOA via mail and fax more than three (3) times.

374. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Ms. Barrios the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

375. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch, his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

376. Plaintiff did not receive any written verification the application was received, but BOA Representative Alejandra verbally informed Plaintiff she was approved and requested she make "trial payments" of \$1,700.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Ms. Barrios to make payments to BOA, not for the purpose of compliance with HAMP or processing her HAMP application, but to cause Plaintiff to send

funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

377. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

378. Relying on BOA's misrepresentations, Ms. Barrios made three (3) payments of more than \$1,700.00 in 2011, hoping to save her home.

379. Despite making her trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite her efforts, BOA refused to respond to Ms. Barrios concerning her HAMP application.

380. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

381. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Ms. Barrios trial payments in an unapplied account and never applied the amounts to her account or gave her credit for the payments, but simply kept the funds for profit.

382. On September 27, 2011, Ms. Barrios' home was foreclosed by The Bank of New York Mellon. As a result of the foreclosure, a judgment in the amount of \$417,121.78 was entered against Ms. Barrios, \$57,221.78 more than her original mortgage. Ms. Barrios moved out of her home in 2012.

383. BOA committed common law fraud upon Ms. Barrios in that it made false statements of fact it knew were false for the purpose of inducing Ms. Barrios to rely on those

statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Ms. Barrios relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

384. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Ms. Barrios to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Ms. Barrios relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

385. Ms. Barrios suffered damages including but not limited to the costs for sending the HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of her home and the equity in that home, and the loss of future equity in the home, as well as damage to her credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 20, JOSE GONZALEZ AND YOLANDA GONZALEZ**

386. On April 15, 2005, Plaintiffs, Jose Gonzalez and Yolanda Gonzalez, executed a mortgage and a note for their home located at 5215 Baldock Avenue, Spring Hill, Florida in the amount of \$142,935.00 with regular monthly payments set at \$1751.82. The lender was

Countrywide Home Loans, Inc. The Plaintiffs subsequently refinanced the subject property.

387. Subsequently, BOA began servicing the mortgage and the loan was assigned number 157511625.

388. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

389. In April 2011, BOA loan representative, Nancy Rivera, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Nancy Rivera specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Nancy Rivera was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

390. Subsequently, BOA provided Mr. and Mrs. Gonzalez a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

391. When Mr. and Mrs. Gonzalez returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. and Mrs. Gonzalez sent their HAMP application and supporting financial documents to BOA via mail and fax more than five (5) times.

392. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. and Mrs. Gonzalez the Bank had no information regarding

the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

393. Relying on the misrepresentations by BOA employees, Plaintiffs hand delivered to a local branch, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

394. Plaintiffs did not receive any written verification the application was received, but BOA Representative Nancy Rivera verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$1,000.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. and Mrs. Gonzalez to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

395. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

396. Relying on BOA’s misrepresentations, Mr. and Mrs. Gonzalez made three (3)

payments of \$1,000.00 in 2011, hoping to save their home.

397. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Gonzalez concerning their HAMP application.

398. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

399. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Gonzalez trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

400. On April 30, 2015, Mr. and Mrs. Gonzalez's home was foreclosed by The Bank of New York Mellon. As a result of the foreclosure, a judgment in the amount of \$341,624.02 was entered against Mr. and Mrs. Gonzalez's, \$198,689.02 more than their original mortgage. Mr. and Mrs. Gonzalez moved out of their home in 2015.

401. BOA committed common law fraud upon Mr. and Mrs. Gonzalez in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Gonzalez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. and Mrs. Gonzalez relied on BOA's



false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

402. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Gonzalez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Gonzalez relied on BOA's false statements and acted on those false statements and as a result, suffered actual damages.

403. Mr. and Mrs. Gonzalez suffered damages including but not limited to the costs for sending the HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**PLAINTIFFS # 21, ABELARDO ALONSO AND ARIELA SOLLET**

404. On August 5, 2004, Plaintiffs, Abelardo Alfonso and Ariela Sollet executed a mortgage and note for their home located at 2511 West 54<sup>th</sup> Street, Tampa, Florida in the amount of \$75,050.00 with regular monthly payments set at \$888.36. The lender was Corbanc Mortgage LLC.

405. Subsequently, BOA began servicing the mortgage and the loan was assigned number 74123070.

406. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA in by phone 2009 requesting a HAMP modification.

407. In April 2012, BOA loan representative, Dorothy Whitehead, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Dorothy Whitehead specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure.

408. Subsequently, BOA provided Mr. Alonso and Ms. Sollet a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

409. When Mr. Alonso and Ms. Sollet returned the application along with supporting financial documents, they were falsely informed by BOA employees, Dorothy Whitehead, Customer Relationship Manager, that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Alonso and Ms. Sollet sent their HAMP application and supporting financial documents to BOA via mail more than three (3) times.

410. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. Alonso and Ms. Sollet the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were

awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

411. Relying on the misrepresentations by BOA employees, Plaintiff mailed via U.S. their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

412. Plaintiffs did not receive any written verification the application was received, but a BOA representative Dorothy Whitehead verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$800.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Alonso and Ms. Sollet to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to them account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

413. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

414. Relying on BOA’s misrepresentations, Mr. Alonso and Ms. Sollet made three (3) payments of more than \$800 in 2012, hoping to save her home.

415. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently,

despite their efforts, BOA refused to respond to Mr. Alonso and Ms. Sollet concerning their HAMP application.

416. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

417. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Alonso and Ms. Sollet's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

418. On July 21, 2014, Mr. Alonso and Ms. Sollet's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$183,047.17 was entered against Mr. Alonso and Ms. Sollet, \$107,997.17 more than their original mortgage. Mr. Alonso and Ms. Sollet moved out of their home in 2012.

419. Despite the fact that Mr. Alonso and Ms. Sollet lived in their home, until 2012, BOA charged their account for a "Property Inspection" on sixteen (16) occasions from 2009 to 2012, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiffs' account and added to the judgment amount.

420. BOA committed common law fraud upon Mr. Alonso and Ms. Sollet in that it made false statements of fact it knew were false for the purpose of inducing Mr. Alonso and Ms. Sollet to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees.

BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Alonso and Ms. Sollet relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

421. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Alonso and Ms. Sollet to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Alonso and Ms. Sollet relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

422. Mr. Alonso and Ms. Sollet suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 22, GASPAR COLON AND GUADALUPE CELI**

423. On September 8, 2006, Plaintiffs, Gaspar Colon and his wife, Guadalupe Celi executed a mortgage and note for their home located at 1705 West Union Street, Tampa, Florida in the amount of \$130,850.00 with regular monthly payments set at \$1,059.15. The lender was Decision One Mortgage Company LLC.

424. Subsequently, BOA began servicing the mortgage and the loan was assigned Number 730491383.

425. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

426. In November 2009, BOA loan representative, LaRue Wilson, advised Plaintiffs by phone to refrain from making their regular Mortgage payments. LaRue Wilson specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative LaRue Wilson was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

427. Subsequently, BOA provided Mr. Colon and Mrs. Celi a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

428. When Mr. Colon and Mrs. Celi returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Colon and Mrs. Celi sent their HAMP application and supporting financial documents to BOA via registered and certified mail more than three (3) times.

429. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. Colon and Mrs. Celi the Bank had no information regarding the HAMP application. Mr. Colon and Mrs. Celi were told by a BOA employee he had

no knowledge of what Mr. Colon and Mrs. Celi were talking about. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

430. Relying on the misrepresentations by BOA employees, Plaintiff sent their HAMP application and financial documents via U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

431. Plaintiff did not receive any written verification the application was received, but a BOA representative, LaRue Wilson, Customer Relationship Manager, verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$900.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Colon and Mrs. Celi to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

432. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

433. Relying on BOA's misrepresentations, Mr. Colon and Mrs. Celi made three (3) payments of more than \$900 in 2010, hoping to save their home.

434. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Colon and Mrs. Celi concerning their HAMP application.

435. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

436. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Colon and Mrs. Celi's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

437. On July 19, 2012, Mr. Colon and Mrs. Celi's home was foreclosed by Deutsche Bank National Trust. As a result of the foreclosure, a judgment in the amount of \$189,119.63 was entered against Mr. Colon and Mrs. Celi, \$59,269.63 more than their original mortgage. Mr. Colon and Mrs. Celi moved out of their home in 2012.

438. Despite the fact that Mr. Colon and Mrs. Celi lived in their home, until 2012, BOA charged their account for a "Property Inspection" on seventeen (17) occasions from 2008 to 2012, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.



439. BOA committed common law fraud upon Mr. Colon and Mrs. Celi in that it made false statements of fact it knew were false for the purpose of inducing Mr. Colon and Mrs. Celi to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs' trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Colon and Mrs. Celi relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

440. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Colon and Mrs. Celi to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Colon and Mrs. Celi relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

441. Mr. Colon and Mrs. Celi suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 23, GASPAR COLON AND GUADALUPE CELI**

442. On February 13, 2006, Plaintiffs, Gaspar Colon and his wife, Guadalupe Celi executed a mortgage and note for their home located at 4255 W. Humphrey Street, Apartment 312, Tampa, Florida in the amount of \$121,520.00 with regular monthly payments set at \$1,163.80 and a second loan in the amount of \$15,190.00 with regular monthly payments set at \$138.95. The lender was Country Wide Home Loans Inc.

443. Subsequently, BOA began servicing the mortgage and the loans were assigned numbers 124594349 and 124594301 respectively.

444. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

445. In November 2009, BOA loan representative, LaRue Wilson, advised Plaintiffs by phone to refrain from making their regular mortgage payments. LaRue Wilson specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative LaRue Wilson was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

446. Subsequently, BOA provided Mr. Colon and Mrs. Celi a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

447. When Mr. Colon and Mrs. Celi returned the application along with supporting financial documents, they were falsely informed by BOA employee, LaRue Wilson, Customer Relationship Manager, the documents were not received, were incomplete or were not current,

forcing Plaintiffs to resubmit the information again and again. Mr. Colon and Mrs. Celi sent their HAMP application and supporting financial documents to BOA via U.S. Mail more than three (3) times.

448. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Colon and Mrs. Celi the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

449. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

450. Plaintiffs did not receive any written verification the application was received, but BOA representative LaRue Wilson verbally informed Plaintiffs they were approved and requested they make "trial payments" of more than \$900.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Colon and Mrs. Celi to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees

it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

451. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

452. Relying on BOA's misrepresentations, Mr. Colon and Mrs. Celi made three (3) payments of more than \$900.00 in 2010, hoping to save their home.

453. Despite making trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Colon and Mrs. Celi concerning their HAMP application.

454. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

455. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Colon and Mrs. Celi's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

456. On August 20, 2013 Mr. Colon and Mrs. Celi's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$173,415.83 was entered against Mr. Colon and Mrs. Celi, \$51,895.83 more than their original mortgage. Mr. Colon and Mrs. Celi moved out of their home in 2014.

457. Despite the fact that Mr. Colon and Mrs. Celi lived in their home until 2014, BOA charged their account for a “Property Inspection” on sixteen (16) occasions from 2008 to 2014, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff’s account and added to the judgment amount.

458. BOA committed common law fraud upon Mr. Colon and Mrs. Celi in that it made false statements of fact it knew were false for the purpose of inducing Mr. Colon and Mrs. Celi to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs’ trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Mr. Colon and Mrs. Celi relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

459. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Colon and Mrs. Celi to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Colon and Mrs. Celi relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

460. Mr. Colon and Mrs. Celi suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home as well as

damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 24, PAZ A. GUEVARA**

461. On December 9, 2005, Plaintiff, Paz A. Guevara, executed a mortgage and note for his home located at 2118 E. 109th Ave, Tampa, Florida in the amount of \$125,910.00 with regular monthly payments set at \$1,104.02. The lender was Unimortgage LLC.

462. Subsequently, BOA began servicing the mortgage and the loan was assigned number 116789135.

463. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

464. In November 2009, BOA loan representative, LaTasha Jones, advised Plaintiff by phone to refrain from making his regular mortgage payments. LaTasha Jones specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative LaTasha Jones was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

465. Subsequently, BOA provided Mr. Guevara a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

466. When Mr. Guevara returned the application along with supporting financial documents, he was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again.

Mr. Guevara sent his HAMP application and supporting financial documents to BOA via U. S. Mail and facsimile more than two (2) times.

467. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Guevara the Bank had no information regarding his HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

468. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via U.S. Mail and facsimile over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

469. Plaintiff did not receive any written verification the application was received, but a BOA representative, LaTasha Jones, verbally informed Plaintiff he was approved and requested he make "trial payments" of \$1,600.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Guevara to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

470. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

471. Relying on BOA's misrepresentations, Mr. Guevara made three (3) payments of \$1,600.00 in 2010 hoping to save his home.

472. Despite making his trial payments, Plaintiff never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Guevara concerning his HAMP application.

473. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

474. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Guevara's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

475. On August 26, 2010 Mr. Guevara's home was foreclosed by US Bank National Association. As a result of the foreclosure, a judgment in the amount of \$187,164.09 was entered against Mr. Guevara, \$61,254.09 more than his original mortgage. Mr. Guevara moved out of his home in 2010.

476. Despite the fact that Mr. Guevara lived in his home until 2010, BOA charged his account for a "Property Inspection" on five (5) occasions, all while he was living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one



example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

477. BOA committed common law fraud upon Mr. Guevara in that it made false statements of fact it knew were false for the purpose of inducing Mr. Guevara to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Guevara relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

478. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Guevara to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Guevara relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

479. Mr. Guevara suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 25, GIL A. MOSQUEA AND DIGNA M. MOSQUEA**

480. On May 26, 2006, Plaintiffs, Gil A. Mosquea and his wife, Digna M. Mosquea, executed a mortgage and note for their home located at 1513 West Patterson Street, Tampa, Florida in the amount of \$183,548.00 with regular monthly payments set at \$1,561.25. The lender was AMPRO Mortgage, a Division of United Financial Mortgage Corp.

481. Subsequently, BOA began servicing the mortgage and the loan was assigned number 128756275.

482. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

483. In July 2011, BOA loan representative, Roberto, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Roberto specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Roberto was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

484. Subsequently, BOA provided Mr. and Mrs. Mosquea a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

485. When Mr. and Mrs. Mosquea returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information

again and again. Mr. and Mrs. Mosquea sent their HAMP application and supporting financial documents to BOA by hand delivery to a local branch and previously telephonically.

486. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. and Mrs. Mosquea the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

487. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents facsimile and U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

488. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Roberto, verbally informed Plaintiffs they were approved and requested they make "trial payments" of more than \$1,200.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Mosquea to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to

fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

489. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

490. Relying on BOA's misrepresentations, Mr. and Mrs. Mosquea made three (3) payments of \$1,200.00 in 2011, hoping to save their home.

491. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Mosquea concerning their HAMP application.

492. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

493. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Mosquea trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

494. On May 15, 2014, Mr. and Mrs. Mosquea's home was foreclosed by National Community Capital Fund Tampa, LLC. As a result of the foreclosure, a judgment in the amount of \$280,265.84 was entered against Mr. and Mrs. Mosquea, \$96,717.84 more than their original mortgage. Mr. and Mrs. Mosquea moved out of their home in 2010.

495. Despite the fact that Mr. and Mrs. Mosquea lived in their home until 2010, BOA charged their account for a “Property Inspection” while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff’s account and added to the judgment amount.

496. BOA committed common law fraud upon Mr. and Mrs. Mosquea in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Mosquea to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Mr. and Mrs. Mosquea relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

497. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Mosquea to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Mosquea relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

498. Mr. and Mrs. Mosquea suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their

credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 26, RAMON PAYANO AND ANGELA PAYANO**

499. On October 19, 2004, Plaintiffs, Ramon Payano and his wife, Angela Payano, executed a mortgage and note for their home located at 5488 Carolwood Meadows Drive, Tampa, Florida in the amount of \$156,750.00 with regular monthly payments set at \$1,656. The lender was Argent Mortgage Company, LLC.

500. Subsequently, BOA began servicing the mortgage and the loan was assigned Number 130800123.

501. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

502. In June 2010, BOA loan representatives Maria advised Plaintiffs by phone to refrain from making their regular mortgage payments. Maria specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Maria was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

503. Subsequently, BOA provided Mr. and Mrs. Payano a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

504. When Mr. and Mrs. Payano returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not

received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. and Mrs. Payano sent their HAMP application and supporting financial documents to BOA via facsimile and U. S. Mail more than five (5) times.

505. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. and Mrs. Payano the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

506. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via facsimile, Federal Express and U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

507. Plaintiffs did not receive any written verification the application was received, but a BOA representative Maria verbally informed Plaintiffs they were approved and requested they make "trial payments" of more than \$1,400.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Payano to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs

to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

508. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

509. Relying on BOA's misrepresentations, Mr. and Mrs. Payano made three (3) payments of more than \$1,400.00 in 2010, hoping to save their home.

510. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Payano concerning their HAMP application.

511. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

512. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Payano's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

513. On May 8, 2014, Mr. and Mrs. Payano's home was foreclosed by Bank of New York, Mellon. As a result of the foreclosure, a judgment in the amount of \$379,789.43 was entered against Mr. and Mrs. Payano, \$223,039.43 more than their original mortgage. Mr. and Mrs. Payano moved out of their home in 2014.



514. Despite the fact that Mr. and Mrs. Payano lived in their home until 2014, BOA charged their account for a “Property Inspection” on thirty-seven (37) occasions from 2006 to 2014, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff’s account and added to the judgment amount.

515. BOA committed common law fraud upon Mr. and Mrs. Payano in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Payano to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs’ trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Mr. and Mrs. Payano relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

516. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Payano to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Payano relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

517. Mr. and Mrs. Payano suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their

credit, and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 27, GABINO C. PERALTA AND ARELY M. RAMIREZ**

518. On November 30, 2005, Plaintiffs, Gabino C. Peralta and his wife, Arely M. Ramirez, executed a mortgage and note for their home located at 7705 Silver Oak Lane, Tampa, Florida in the amount of \$145,000.00 with regular monthly payments set at \$1,370.99. The lender was America's Wholesale Lender.

519. Subsequently, BOA began servicing the mortgage and the loan was assigned number 122569500.

520. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

521. In January 2011, BOA loan representative, Angela, advised Plaintiffs to refrain from making their regular mortgage payments. Angela specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Angela was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

522. Subsequently, BOA provided Mr. Peralta and Mrs. Ramirez a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

523. When Mr. Peralta and Mrs. Ramirez returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Peralta and Mrs. Ramirez sent their HAMP application and supporting financial documents to BOA via U. S. Mail and Federal Express more than two (2) times.

524. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. Peralta and Mrs. Ramirez the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

525. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via U.S. Mail and Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

526. Plaintiffs did not receive any written verification the application was received, but BOA representative, Angela, verbally informed Plaintiffs were approved and requested they make "trial payments" more than of \$1,300.00 pursuant to the Federal Government's Home

Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Peralta and Mrs. Ramirez to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

527. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

528. Relying on BOA's misrepresentations, Mr. Peralta and Mrs. Ramirez made three (3) payments of more than \$1,300.00 in 2011, hoping to save their home.

529. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Peralta and Mrs. Ramirez concerning their HAMP application.

530. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

531. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Peralta and Mrs. Ramirez's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

532. On December 1, 2011 Mr. Peralta and Mrs. Ramirez's home was foreclosed by BAC Home Loans. As a result of the foreclosure, a judgment in the amount of \$203,284.85 was entered against Mr. Peralta and Mrs. Ramirez, \$60,284.85 more than their original mortgage. Mr. Peralta and Mrs. Ramirez moved out of their home in 2012.

533. Despite the fact that Mr. Peralta and Mrs. Ramirez lived in their home until 2011, BOA charged their account for a "Property Inspection" on twenty (20) occasions from 2008 to 2011, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

534. BOA committed common law fraud upon Mr. Peralta and Mrs. Ramirez in that it made false statements of fact it knew were false for the purpose of inducing Mr. Peralta and Mrs. Ramirez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs' trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Peralta and Mrs. Ramirez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

535. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Peralta and Mrs. Ramirez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Peralta and Mrs. Ramirez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

536. Mr. Peralta and Mrs. Ramirez suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 28, PABLO GONZALEZ**

537. On November 30, 2005, Plaintiff, Pablo Gonzalez, executed a mortgage and note for his home located at 5621 63<sup>rd</sup> Way N., St. Petersburg, Florida in the amount of \$142,100.00 with regular monthly payments set at \$1,187.77. The lender was Bank of America, N.A.

538. Subsequently, BOA began servicing the mortgage and the loan was assigned number 6332293346 (Now known as loan number 871421687).

539. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

540. In May 2011 BOA loan representative, Carlos, advised Plaintiff by phone to refrain from making his regular mortgage payments. Carlos specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Carlos was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

541. Subsequently, BOA provided Mr. Gonzalez a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

542. When Mr. Gonzalez returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Gonzalez sent his HAMP application and supporting financial documents to BOA via Federal Express more than two (2) times.

543. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Gonzalez the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

544. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

545. Plaintiff did not receive any written verification the application was received, but a BOA representative, Carlos, verbally informed Plaintiff he was approved and requested he make "trial payments" of more than \$700.00 pursuant to the Federal Government's Home

Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Gonzalez to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to his account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

546. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

547. Relying on BOA's misrepresentations, Mr. Gonzalez made three (3) payments of more than \$700.00 in 2011, hoping to save his home.

548. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Garcia concerning their HAMP application.

549. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

550. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Gonzalez's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

551. On December 18, 2012, Mr. Garcia's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$153,082.43 was entered against Mr. Gonzalez, \$10,982.43 more than his original mortgage. Mr. Gonzalez moved out of his home in 2013.



552. Despite the fact that Mr. Gonzalez lived in his home until 2013, BOA charged his account for a “Property Inspection” all while he was living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff’s account and added to the judgment amount.

553. BOA committed common law fraud upon Mr. Gonzalez in that it made false statements of fact it knew were false for the purpose of inducing Mr. Gonzalez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs’ trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Mr. Gonzalez relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

554. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Gonzalez to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Gonzalez relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

555. Mr. Gonzalez suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and

the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 29, JAVIER RESTREPO**

556. On June 27, 2007, Plaintiff, Javier Restrepo, executed a mortgage and note for his home located at 10457 Rosemount Drive, Tampa, Florida in the amount of \$175,000.00 with regular monthly payments set at \$1,782.00. The lender was First Magnus Financial Corporation.

557. Subsequently, BOA began servicing the mortgage and the loan was assigned number 16325866.

558. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

559. In July 2009, BOA loan representative, Luis, advised Plaintiff to refrain from making his regular mortgage payments. Luis specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Luis was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

560. Subsequently, BOA provided Mr. Restrepo a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

561. When Mr. Restrepo returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and

again. Mr. Restrepo sent his HAMP application and supporting financial documents to BOA via mail more than five (5) times.

562. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Mr. Restrepo the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

563. Relying on the misrepresentations by BOA employees, Plaintiff mailed by way of US Mail, his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

564. Plaintiff did not receive any written verification the application was received, but a BOA representative Luis verbally informed Plaintiff he was approved and requested he make "trial payments" of more than \$700.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Restrepo to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

565. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

566. Relying on BOA's misrepresentations, Mr. Restrepo made three (3) payments of more than \$700.00 in 2009, hoping to save his home.

567. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Restrepo concerning his HAMP application.

568. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

569. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Restrepo's trial payments in an unapplied account and never applied the amounts to his account or gave his credit for the payments, but simply kept the funds for profit.

570. On April 28, 2010, Mr. Restrepo's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$224,684.25 was entered against Mr. Restrepo, \$49,684.25 more than their original mortgage. Mr. Restrepo moved out of his home in 2014.

571. Despite the fact that Mr. Restrepo lived in his home, until 2014, BOA charged their account for a "Property Inspection" forty-seven (47) times from 2008 to 2014, all while he was living in his home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

572. BOA committed common law fraud upon Mr. Restrepo that it made false statements of fact it knew were false for the purpose of inducing Mr. Restrepo to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Restrepo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

573. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Restrepo to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Restrepo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

574. Mr. Restrepo suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 30, ADONIS RODRIGUEZ**

575. On July 3, 2008, Plaintiff, Adonis Rodriguez executed a mortgage and note for his

home located at 4551 Limerick Drive, Tampa, Florida in the amount of \$104,166.00 with regular monthly payments set at \$728.27. The lender was Countrywide KB Home Loans.

576. Subsequently, BOA began servicing the mortgage and the loan was assigned number 193846706.

577. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

578. In October 2011, BOA loan representative, Paloma, advised Plaintiff by phone to refrain from making their regular mortgage payments. Paloma specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Paloma was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

579. Subsequently, BOA provided Mr. Rodriguez a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

580. When Mr. Rodriguez returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Rodriguez sent his HAMP application and supporting financial documents to BOA via mail more than four (4) times.

581. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Rodriguez the Bank had no information regarding the HAMP

application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

582. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

583. Plaintiff did not receive any written verification the application was received, but BOA representative Paloma verbally informed Plaintiff he was approved and requested he make “trial payments” of more than \$700.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Rodriguez to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

584. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

585. Relying on BOA’s misrepresentations, Mr. Rodriguez made three (3) payments of more than \$700.00 in 2011, hoping to save his home.

586. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Rodriguez concerning his HAMP application.

587. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

588. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Rodriguez's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

589. On September 11, 2014, Mr. Rodriguez's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$138,950.89 was entered against Mr. Rodriguez, \$34,784.89 more than his original mortgage. Mr. Rodriguez moved out of his home in 2014.

590. BOA committed common law fraud upon Mr. Rodriguez in that it made false statements of fact it knew were false for the purpose of inducing Mr. Rodriguez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Rodriguez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.



591. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Rodriguez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Rodriguez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

592. Mr. Rodriguez suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 31, RICARDO ROSSELINI**

593. On February 16, 2006, Plaintiff, Ricardo Rosselini, executed a mortgage and note for their home located at 11410 Waveland Way, Tampa, Florida in the amount of \$123,200.00 with regular monthly payments set at \$882.62. The lender was Oak Street Mortgage, LLC.

594. Subsequently, BOA began servicing the mortgage and the loan was assigned number 133548817.

595. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

596. In January 2011, BOA loan representative, Jessica D., advised Plaintiff by phone to refrain from making his regular mortgage payments. Jessica D. specifically told Plaintiffs

being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Jessica D. was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

597. Subsequently, BOA provided Mr. Rosselini a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

598. When Mr. Rosselini returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Rosselini sent his HAMP application and supporting financial documents to BOA via mail more than three (3) times.

599. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Mr. Rosselini the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

600. Relying on the misrepresentations by BOA employees, Plaintiff hand delivered to a local branch, his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible

for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

601. Plaintiff did not receive any written verification the application was received, but a BOA representative, Jessica D, verbally informed Plaintiff he was approved and requested he make “trial payments” of more than \$900.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Rosselini to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

602. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

603. Relying on BOA’s misrepresentations, Mr. Rosselini made three (3) payments of more than \$900.00 in 2011, hoping to save his home.

604. Despite making his trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Rosselini concerning his HAMP application.

605. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

606. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Rosselini's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

607. On October 25, 2011, Mr. Rosselini's home was foreclosed by Bank of New York Mellon. As a result of the foreclosure, a judgment in the amount of \$151,286.33 was entered against Mr. Rosselini, \$28,086.33 more than their original mortgage. Mr. Rosselini moved out of their home in 2011.

608. Despite the fact that Mr. Rosselini lived in their home, until 2011, BOA charged their account for a "Property Inspection" twenty-one (21) times from 2009 to 2011, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

609. BOA committed common law fraud upon Mr. Rosselini in that it made false statements of fact it knew were false for the purpose of inducing Mr. Rosselini to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Rosselini relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

610. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Rosselini to cover and

conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Rosselini relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

611. Mr. Rosselini suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 32, JOHN RUIZ**

612. On June 27, 2005, Plaintiff, John Ruiz, executed a mortgage and note for their home located at 10309 Del Mar Circle, Tampa, Florida in the amount of \$144,000.00 with regular monthly payments set at \$874.96. The lender was Amnet Mortgage Inc. DBA American Mortgage Network of Florida.

613. Subsequently, BOA began servicing the mortgage and the loan was assigned number 71361874.

614. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

615. In March 2011, BOA loan representative, Isranda, advised Plaintiff to refrain from making his regular mortgage payments. Isranda specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA

representative Isranda was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

616. Subsequently, BOA provided Mr. Ruiz a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

617. When Mr. Ruiz returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Ruiz sent his HAMP application and supporting financial documents to BOA via US mail more than three (3) times.

618. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Mr. Ruiz the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

619. Relying on the misrepresentations by BOA employees, Plaintiff mailed by certified US Mail and facsimile, his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular

mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

620. Plaintiff did not receive any written verification the application was received, but a BOA representative, Isandra, verbally informed Plaintiff he was approved and requested he make “trial payments” of more than \$800.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Ruiz to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

621. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

622. Relying on BOA’s misrepresentations, Mr. Ruiz made three (3) payments of more than \$800.00 in 2011, hoping to save his home.

623. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Ruiz concerning his HAMP application.

624. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

625. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Ruiz's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

626. On October 1, 2013, Mr. Ruiz's home was foreclosed by US Bank National Association. As a result of the foreclosure, a judgment in the amount of \$195,714.10 was entered against Mr. Ruiz, \$51,714.10 more than their original mortgage. Mr. Ruiz moved out of his home in 2013.

627. Despite the fact that Mr. Ruiz lived in their home, until 2013, BOA charged their account for a "Property Inspection" from 2009 to 2013 fifty-seven (57) times, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

628. BOA committed common law fraud upon Mr. Ruiz in that it made false statements of fact it knew were false for the purpose of inducing Mr. Ruiz to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Ruiz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

629. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Ruiz to cover and conceal



the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Ruiz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

630. Mr. Ruiz suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 33, FARIDA SANTOS**

631. On October 22, 2004, Plaintiff, Farida Santos, executed a mortgage and note for her home located at 2025 Bell Ranch Street, Brandon, Florida in the amount of \$180,000.00 with regular monthly payments set at \$1,923.62. The lender was America's Wholesale Lender.

632. Subsequently, BOA began servicing the mortgage and the loan was assigned number 121176362.

633. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

634. In February 2010, BOA loan representative, Alexa, advised Plaintiff to refrain from making her regular mortgage payments. Alexa specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Alexa was specifically instructed to make this false statement to Plaintiffs and

other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

635. Subsequently, BOA provided Mrs. Santos a HAMP application and she properly completed the application and returned it to BOA with supporting financial documents.

636. When Mrs. Santos returned the application along with supporting financial documents, she was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mrs. Santos sent their HAMP application and supporting financial documents to BOA via mail more than four (4) times.

637. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Mrs. Santos the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

638. Relying on the misrepresentations by BOA employees, Plaintiff sent by US Certified Mail and facsimile, her HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

639. Plaintiff did not receive any written verification the application was received, but a BOA representative, Alexa, verbally informed Plaintiff she was approved and requested she make “trial payments” of more than \$1,500.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mrs. Santos to make payments to BOA, not for the purpose of compliance with HAMP or processing her HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

640. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

641. Relying on BOA’s misrepresentations, Mrs. Santos made three (3) payments of more than \$1,500.00 in 2010, hoping to save her home.

642. Despite making her trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite her efforts, BOA refused to respond to Mrs. Santos concerning her HAMP application.

643. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

644. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mrs. Santos’s trial payments in an unapplied account and never applied the amounts to his account or gave her credit for the payments, but simply kept the funds for profit.

645. On July 7, 2010, Mrs. Santos' home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$264,041.00 was entered against Mrs. Santos, \$84,041.00 more than their original mortgage. Mrs. Santos moved out of her home in 2011.

646. Despite the fact that Mrs. Santos lived in their home, until 2011, BOA charged their account for a "Property Inspection" from 2009 to 2011 sixteen (16) times, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

647. BOA committed common law fraud upon Mrs. Santos in that it made false statements of fact it knew were false for the purpose of inducing Mrs. Santos to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs' trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mrs. Santos relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

648. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mrs. Santos to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mrs. Santos relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

649. Mrs. Santos suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of her home and the equity in that home, and the loss of future equity in the home as well as damage to her credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 34, MICHAEL SANTOS**

650. On December 14, 2014, Plaintiff, Michael Santos, executed a mortgage and note for his home located at 902 W. Meadowbrook Ave., Tampa, Florida in the amount of \$91,000.00 with regular monthly payments set at \$653.51. The lender was WMC Mortgage Corporation.

651. Subsequently, BOA began servicing the mortgage and the loan was assigned number 68588427.

652. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

653. In March 2012, BOA loan representative, Scott, advised Plaintiff to refrain from making his regular mortgage payments. Scott specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Scott was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

654. Subsequently, BOA provided Mr. Santos a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

655. When Mr. Santos returned the application along with supporting financial documents, he was falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Santos sent his HAMP application and supporting financial documents to BOA via mail more than three (3) times.

656. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Mr. Santos the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

657. Relying on the misrepresentations by BOA employees, Plaintiff sent by US Mail and online forms, their HAMP application and financial documents over and over as a result of misrepresentations by BOA employees.

658. Plaintiff did not receive any written verification the application was received, but a BOA representative, Scott, verbally informed Plaintiff he was approved and requested he make "trial payments" of more than \$700.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Santos to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send

funds so BOA could apply the funds to fraudulent fees it charged to his account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

659. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

660. Relying on BOA's misrepresentations, Mr. Santos made three (3) payments of more than \$700.00 in 2012, hoping to save his home.

661. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Santos concerning his HAMP application.

662. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

663. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Santos's trial payments in an unapplied account and never applied the amounts to his account or gave his credit for the payments, but simply kept the funds for profit.

664. On November 13, 2014, Mr. Santos's home was foreclosed by Wells Fargo. As a result of the foreclosure, a judgment in the amount of \$130,346.10 was entered against Mr. Santos, \$39,346.10 more than their original mortgage. Mr. Santos moved out of his home in 2014.

665. Despite the fact that Mr. Santos lived in the home, until 2014, BOA charged their account for a "Property Inspection" from 2008 to 2014, fifty-two (52) times, all while they were

living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

666. BOA committed common law fraud upon Mr. Santos in that it made false statements of fact it knew were false for the purpose of inducing Mr. Santos to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Santos relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

667. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Santos to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Santos relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

668. Mr. Santos suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to



inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 35, PLUTARCO SANTOS AND RAMONA SANTOS**

669. On February 10, 2006, Plaintiffs, Plutarco Santos and Ramona Santos, executed a mortgage and note for their home located at 13761-201 Juniper Blossom, Tampa, Florida in the amount of \$88,100.00 with regular monthly payments set at \$1,052.00. The lender was Liberty Home Lending.

670. Subsequently, BOA began servicing the mortgage and the loan was assigned number 118103894.

671. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

672. In February 2010, BOA loan representative, Jason, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Jason specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Jason was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

673. Subsequently, BOA provided Plutarco Santos and Ramona Santos a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

674. When Mr. and Mrs. Santos returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not

received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. and Mrs. Santos sent their HAMP application and supporting financial documents to BOA via mail more than six (6) times.

675. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. and Mrs. Santos the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

676. Relying on the misrepresentations by BOA employees, Plaintiffs sent by regular US Mail and facsimile, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

677. Plaintiff did not receive any written verification the application was received, but a BOA representative, Jason, verbally informed Plaintiffs were approved and requested she make "trial payments" of more than \$900.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Santos to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to

send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

678. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

679. Relying on BOA's misrepresentations, Mr. and Mrs. Santos made three (3) payments of more than \$900.00 in 2010, hoping to save their home.

680. Despite making their trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Santos concerning their HAMP application.

681. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

682. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Santos's trial payments in an unapplied account and never applied the amounts to their account or gave their credit for the payments, but simply kept the funds for profit.

683. On October 25, 2012, Mr. and Mrs. Santos's home was foreclosed by Bank of New York Mellon. As a result of the foreclosure, a judgment in the amount of \$134,788.72 was entered against Mr. and Mrs. Santos, \$46,688.72 more than their original mortgage. Mr. and Mrs. Santos moved out of their home in 2012.

684. Despite the fact that Mr. and Mrs. Santos lived in their home, until 2012, BOA charged their account for a “Property Inspection” from 2008 to 2012, twenty-eight (28) times, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff’s account and added to the judgment amount.

685. BOA committed common law fraud upon Mr. and Mrs. Santos in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Santos to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Mr. and Mrs. Santos relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

686. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Santos to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Santos relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

687. Mr. and Mrs. Santos suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as

damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 36, RAFAEL URIBE**

688. On February 23, 2004, Plaintiff, Rafael Uribe, executed a mortgage and note for his home located at 10204 Grant Creek Circle, Tampa, Florida in the amount of \$150,400.00 with regular monthly payments set at \$1,476.13. The lender was World's Savings Bank.

689. Subsequently, BOA began servicing the mortgage and the loan was assigned number 872413359.

690. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

691. In September 2011, BOA loan representatives, Luis Perez and Andrea Rodriguez, advised Plaintiff by phone to refrain from making his regular mortgage payments. Luis Perez and Andrea Rodriguez specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Luis Perez was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

692. Subsequently, BOA provided Mr. Uribe a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

693. When Mr. Uribe returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again

and again. Mr. Uribe sent their HAMP application and supporting financial documents to BOA via mail more than four (4) times.

694. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Uribe the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

695. Relying on the misrepresentations by BOA employees, Plaintiff sent via Certified US Mail, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

696. Plaintiff did not receive any written verification the application was received, but BOA representative Luis Perez verbally informed Plaintiff he was approved and requested he make "trial payments" of more than \$900.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Uribe to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

697. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

698. Relying on BOA's misrepresentations, Mr. Uribe made three (3) payments of more than \$900.00 in 2011, hoping to save his home.

699. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Uribe concerning his HAMP application.

700. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

701. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Uribe's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

702. On February 1, 2016, Mr. Uribe's home was foreclosed by Green Tree Servicing. As a result of the foreclosure, a judgment in the amount of \$401,925.91 was entered against Mr. Uribe, \$251,525.91 more than his original mortgage. Mr. Uribe moved out of his home in 2016.

703. Despite the fact that Mr. Uribe lived in their home, until 2016, BOA charged their account for a "Property Inspection" on twenty-nine (29) occasions, all while he was living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

704. BOA committed common law fraud upon Mr. Uribe in that it made false statements of fact it knew were false for the purpose of inducing Mr. Uribe to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Uribe relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

705. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Uribe to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Uribe relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

706. Mr. Uribe suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 37, VLADIMIR URTIAGA AND ELISA ALVAREZ**

707. On January 5, 2005, Plaintiffs, Vladimir Urtiaga and his wife, Elisa Alvarez, executed a mortgage and note for their home located at 2718 Beach Street West, Tampa, Florida



in the amount of \$115,000.00 with regular monthly payments set at \$956.25. The lender was America's Wholesale Lender.

708. Subsequently, BOA began servicing the mortgage and the loan was assigned number 136723045.

709. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

710. In June 2011, BOA loan representative, Ana Maria, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Ana Maria specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Ana Maria was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

711. Subsequently, BOA provided Mr. Urtiaga and Mrs. Alvarez a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

712. When Mr. Urtiaga and Mrs. Alvarez returned the application along with supporting financial documents, they were falsely informed by BOA employees that the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Urtiaga and Mrs. Alvarez sent their HAMP application and supporting financial documents to BOA via mail more than three (3) times.

713. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times,

BOA employees falsely informed Mr. Urtiaga and Mrs. Alvarez the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

714. Relying on the misrepresentations by BOA employees, Plaintiffs hand delivered to a local branch, their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

715. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Ana Maria, verbally informed Plaintiffs they was approved and requested they make “trial payments” of more than \$900.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Urtiaga and Mrs. Alvarez to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

716. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

717. Relying on BOA's misrepresentations, Mr. Urtiaga and Mrs. Alvarez made three (3) payments of more than \$900.00 in 2011, hoping to save her home.

718. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Urtiaga and Mrs. Alvarez concerning her HAMP application.

719. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

720. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Urtiaga and Mrs. Alvarez's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

721. On March 28, 2012, Mr. Urtiaga and Mrs. Alvarez's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$236,257.80 was entered against Mr. Urtiaga and Mrs. Alvarez, \$41,376.21 more than their original mortgage. Mr. Urtiaga and Mrs. Alvarez moved out of their home in 2012.

722. Despite the fact that Mr. Urtiaga and Mrs. Alvarez lived in their home, until 2012, BOA charged their account for "Property Inspections" from 2009 to 2012, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

723. BOA committed common law fraud upon Mr. Urtiaga and Mrs. Alvarez in that it made false statements of fact it knew were false for the purpose of inducing Mr. Urtiaga and Mrs. Alvarez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Urtiaga and Mrs. Alvarez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

724. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Urtiaga and Mrs. Alvarez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Urtiaga and Mrs. Alvarez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

725. Mr. Urtiaga and Mrs. Alvarez suffered damages including but not limited to the costs for sending them HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 38, PABLO A. ZENTENO AND MARIA J. ZENTENO**

726. On November 14, 2005, Plaintiffs, Pablo A. Zenteno and his wife, Maria J. Zenteno, executed a mortgage and note for their home located at 1605 Rydell Lane, Plant City, Florida in the amount of \$170,910.00 with regular monthly payments set at \$1,438.81. The lender was Bank of America, N.A.

727. Subsequently, BOA began servicing the mortgage and the loan was assigned number 871483932.

728. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

729. In November 2009, BOA loan representatives, Elizabeth and Stephanie, advised Plaintiffs by phone to refrain from making their regular Mortgage payments. Elizabeth and Stephanie specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representatives Elizabeth and Stephanie was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

730. Subsequently, BOA provided Mr. and Mrs. Zenteno a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

731. When Mr. and Mrs. Zenteno returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information

again and again. Mr. and Mrs. Zenteno sent their HAMP application and supporting financial documents to BOA via registered and certified mail more than four (4) times.

732. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. and Mrs. Zenteno the Bank had no information regarding the HAMP application. Mr. Zenteno was told by a BOA employee he had no knowledge what Mr. Zenteno was talking about. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

733. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via registered and certified mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

734. Plaintiffs did not receive any written verification the application was received, but a BOA representatives Elizabeth and Stephanie verbally informed Plaintiff they were approved and requested they make "trial payments" of \$1,438.81 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Zenteno to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her

account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

735. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

736. Relying on BOA's misrepresentations, Mr. and Mrs. Zenteno made three (3) payments of more than \$1,438.81 in 2010, hoping to save their home.

737. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Zenteno concerning their HAMP application.

738. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

739. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Zenteno's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

740. On April 18, 2012, Mr. and Mrs. Zenteno's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$222,887.65 was entered against Mr. and Mrs. Zenteno, \$51,977.65 more than their original mortgage. Mr. and Mrs. Zenteno moved out of their home in 2016.

741. Despite the fact that Mr. and Mrs. Zenteno lived in their home, until 2016, BOA Charged their account for a “Property Inspection” on seventeen (17) occasions from 2008 to 2012, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff’s account and added to the judgment amount.

742. BOA committed common law fraud upon Mr. and Mrs. Zenteno in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Zenteno to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Mr. and Mrs. Zenteno relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

743. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Zenteno to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Zenteno relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

744. Mr. and Mrs. Zenteno suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their



credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFF # 39, JUAN JESUS ACOSTA**

745. On December 19, 2006, Plaintiff, Juan Jesus Acosta, executed a mortgage and note for his home located at 3901 Kimball Avenue, Tampa, Florida in the amount of \$202,400.00 with regular monthly payments set at \$1,163.80. The lender was WMC Mortgage Corporation.

746. Subsequently, BOA began servicing the mortgage and the loan was assigned number 74470994.

747. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

748. In May 2010, BOA loan representative, Roberto Rosado, advised Plaintiff by phone to refrain from making his regular mortgage payments. Roberto Rosado specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Roberto Rosado was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

749. Subsequently, BOA provided Mr. Acosta a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

750. When Mr. Acosta returned the application along with supporting financial documents, he was falsely informed by BOA employees the documents were not received, were

incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Acosta sent his HAMP application and supporting financial documents to BOA via US mail more than four (4) times.

751. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Acosta the Bank had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

752. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via registered and certified mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

753. Plaintiff did not receive any written verification the application was received, but a BOA representative, Roberto Rosado, verbally informed Plaintiff he was approved and requested he make "trial payments" of more \$1,000.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Acosta to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account,

or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

754. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

755. Relying on BOA's misrepresentations, Mr. Acosta made three (3) payments of more than \$1,000.00 in 2010, hoping to save his home.

756. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Acosta concerning his HAMP application.

757. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

758. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Zenteno's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

759. On June 10, 2013 Mr. Acosta's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$310,086.66 was entered against Mr. Acosta, \$107,686.66 more than his original mortgage. Mr. Acosta moved out of his home in 2015.

760. Despite the fact that Mr. Acosta lived in his home, until 2015, BOA charged his account for a "Property Inspection" on twenty-nine (29) occasions from 2007 to 2010, all while he was living in the home. These inspection fees are impermissible under the *HUD Servicing*

*Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

761. BOA committed common law fraud upon Mr. Acosta in that it made false statements of fact it knew were false for the purpose of inducing Mr. Acosta to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Acosta relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

762. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Acosta to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Acosta relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

763. Mr. Acosta suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 40, RODOLFO BEJERANO BLANCO and LORAINA ARENAL MORENO**

764. On June 15, 2006, Plaintiffs, Rodolfo Bejerano Blanco and his wife, Loraine Arenal Moreno, executed a mortgage and note for their home located at 14703 Egret Place, Tampa, Florida in the amount of \$172,800.00 with regular monthly payments set at \$1,562.65. The lender was AMPRO Mortgage.

765. Subsequently, BOA began servicing the mortgage and the loan was assigned number 128950628.

766. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

767. In January 2011, BOA loan representative, Daniel, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Daniel specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Daniel was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

768. Subsequently, BOA provided Mr. Bejerano Blanco and Mrs. Arenal Moreno a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

769. When Mr. Bejerano Blanco and Mrs. Arenal Moreno returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit

the information again and again. Mr. Bejerano Blanco and Mrs. Arenal Moreno sent their HAMP application and supporting financial documents to BOA via U. S. Mail, facsimile and hand delivered to a local branch more than two (2) times.

770. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. Bejerano Blanco and Mrs. Arenal Moreno the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

771. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via registered and certified mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

772. Plaintiffs did not receive any written verification the application was received, but a BOA representative Daniel verbally informed Plaintiffs they were approved and requested they make "trial payments" of more than \$1,600.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. Bejerano Blanco and Mrs. Arenal Moreno to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees

it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

773. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

774. Relying on BOA's misrepresentations, Mr. Bejerano Blanco and Mrs. Arenal Moreno made three (3) payments of more than \$1,600.00 in 2011, hoping to save their home.

775. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Bejerano Blanco and Mrs. Arenal Moreno concerning their HAMP application.

776. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

777. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Bejerano Blanco and Mrs. Arenal Moreno's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

778. On January 15, 2013 Mr. Bejerano Blanco and Mrs. Arenal Moreno's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$229,390.62 was entered against Mr. Bejerano Blanco and Mrs. Arenal Moreno, \$56,590.62 more than their

original mortgage. Mr. Bejerano Blanco and Mrs. Arenal Moreno moved out of their home in 2013.

779. Despite the fact that Mr. Bejerano Blanco and Mrs. Arenal Moreno lived in their home until 2014, BOA charged their account for a “Property Inspection” on thirty-one (31) occasions from 2009 to 2014, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff’s account and added to the judgment amount.

780. BOA committed common law fraud upon Mr. Bejerano Blanco and Mrs. Arenal Moreno in that it made false statements of fact it knew were false for the purpose of inducing Mr. Bejerano Blanco and Mrs. Arenal Moreno to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs’ payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Mr. Bejerano Blanco and Mrs. Arenal Moreno relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

781. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Bejerano Blanco and Mrs. Arenal Moreno to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Bejerano Blanco and Mrs. Arenal Moreno relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.



782. Mr. Bejerano Blanco and Mrs. Arenal Moreno suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 41, CARLOS CEDENO AND MARIA VILLACIS**

783. On February 3, 2006, Plaintiffs, Carlos Cedenó and his wife, Maria Villacis, executed a mortgage and note for their home located at 10408 Opus Drive, Riverview, Florida in the amount of \$212,000.00 with regular monthly payments set at \$2,200.00. The lender was Homecomings Financial Network, Inc.

784. Subsequently, BOA began servicing the mortgage and the loan was assigned number 135999060.

785. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

786. In April 2011, BOA loan representative, Jairo, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Jairo specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Jairo was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

787. Subsequently, BOA provided Mr. Cedenó and Mrs. Villacis a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

788. When Mr. Cedenó and Mrs. Villacis returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. Cedenó and Mrs. Villacis sent their HAMP application and supporting financial documents to BOA by hand delivery to a local branch and previously telephonically.

789. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. Cedenó and Mrs. Villacis the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

790. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via hand delivery to a local BOA retail branch over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

791. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Jairo, verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$2,000 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Cedeno and Mrs. Villacis to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

792. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

793. Relying on BOA’s misrepresentations, Mr. Cedeno and Mrs. Villacis made three (3) payments of more than \$2,000.00 in 2011, hoping to save their home.

794. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Cedeno and Mrs. Villacis concerning their HAMP application.

795. It it was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

796. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Cedenó and Mrs. Villacis' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

797. On October 13, 2012, Mr. Cedenó and Mrs. Villacis' home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$212,537.60 was entered against Mr. Cedenó and Mrs. Villacis, \$537.60 more than their original mortgage. Mr. Cedenó and Mrs. Villacis moved out of their home in 2013.

798. Despite the fact that Mr. Cedenó and Mrs. Villacis lived in their home until 2013, BOA charged their account for "Property Inspections" while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

799. BOA committed common law fraud upon Mr. Cedenó and Mrs. Villacis in that it made false statements of fact it knew were false for the purpose of inducing Mr. Cedenó and Mrs. Villacis to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs' trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Cedenó and Mrs. Villacis relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

800. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying

mortgages under HAMP and to use unsuspecting borrowers like Mr. Cedenó and Mrs. Villacís to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Cedenó and Mrs. Villacís relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

801. Mr. Cedenó and Mrs. Villacís suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 42, JESSICA MARIANELLA CUELLAR**

802. On June 11, 2007, Plaintiff, Jessica Marianela Cuellar, executed a mortgage and note for her home located at 7414 Manhattan Drive, Tampa, Florida in the amount of \$171,500.00 with regular monthly payments set at \$1,571.01. The lender was Freedom Mortgage Corporation.

803. Subsequently, BOA began servicing the mortgage and the loan was assigned number 162777879.

804. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

805. In January 2012, BOA loan representatives, Christina and Carlos, advised Plaintiff by phone to refrain from making her regular mortgage payments. Christina and Carlos specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite

for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representatives Christina and Carlos were specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

806. Subsequently, BOA provided Ms. Cuellar a HAMP application and she properly completed the application and returned it to BOA with supporting financial documents.

807. When Ms. Cuellar returned the application along with supporting financial documents, she was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Ms. Cuellar sent her HAMP application and supporting financial documents to BOA via U. S. Mail, Federal Express and hand delivered to a local branch more than five (5) times.

808. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Ms. Cuellar the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

809. Relying on the misrepresentations by BOA employees, Plaintiff sent her HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a

mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

810. Plaintiff did not receive any written verification the application was received, but BOA representative, Carlos, verbally informed Plaintiff she was approved and requested she make “trial payments” of more than \$1,200.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Ms. Cuellar to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

811. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

812. Relying on BOA’s misrepresentations, Ms. Cuellar made six (6) payments of more than \$1,200.00 in 2012, hoping to save her home.

813. Despite making her trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite her efforts, BOA refused to respond to Ms. Cuellar concerning their HAMP application.

814. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

815. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Ms. Cuellar's trial payments in an unapplied account and never applied the amounts to her account or gave her credit for the payments, but simply kept the funds for profit.

816. On June 12, 2012 Ms. Cuellar's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$236,257.80 was entered against Ms. Cuellar, \$64,757.80 more than her original mortgage. Ms. Cuellar moved out of her home in 2012.

817. Despite the fact that Ms. Cuellar lived in her home until 2012, BOA charged her account for a "Property Inspection" on twenty-three (23) occasions from 2007 to 2013, all while she was living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

818. BOA committed common law fraud upon Ms. Cuellar in that it made false statements of fact it knew were false for the purpose of inducing Ms. Cuellar to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Ms. Cuellar relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

819. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Ms. Cuellar to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it



agreed to in 2009. Ms. Cuellar relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

820. Ms. Cuellar suffered damages including but not limited to the costs for sending her HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of her home and the equity in that home, and the loss of future equity in the home, as well as damage to her credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 43, ELIER MARTINEZ AND MARISOL LOPEZ**

821. On September 22, 2005, Plaintiffs, Elier Martinez and Marisol Lopez, executed a mortgage and note for their home located at 6403 Heather Moor Court, Tampa, Florida in the amount of \$207,200.00 with regular monthly payments set at \$1,242.27. The lender was Bank of America, National Association.

822. Subsequently, BOA began servicing the mortgage and the loan was assigned number 870515283.

823. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted by phone BOA in 2010 requesting a HAMP modification.

824. In December 2011, BOA loan representatives, Susan and Carlos, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Susan and Carlos specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representatives Susan and Carlos were specifically instructed

to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

825. Subsequently, BOA provided Mr. Martinez and Ms. Lopez a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

826. When Mr. Martinez and Ms. Lopez returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. Martinez and Ms. Lopez sent their HAMP application and supporting financial documents to BOA via U. S. Mail more than three (3) times.

827. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. Martinez and Ms. Lopez the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

828. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via U.S. Mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

829. Plaintiffs did not receive any written verification the application was received, but BOA representative Carolos verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$1,200.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Martinez and Ms. Lopez to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

830. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

831. Relying on BOA’s misrepresentations, Mr. Martinez and Ms. Lopez made three (3) payments of more than \$1,200.00 in 2012, hoping to save their home.

832. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Martinez and Ms. Lopez concerning their HAMP application.

833. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

834. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Martinez and Ms. Lopez's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

835. On June 26, 2012 Mr. Martinez and Ms. Lopez's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$236,321.96 was entered against Mr. Martinez and Ms. Lopez, \$55,121.96 more than their original mortgage. Mr. Martinez and Ms. Lopez moved out of their home in 2012.

836. Despite the fact that Mr. Martinez and Ms. Lopez lived in their home until 2012, BOA charged their account for a "Property Inspection" on fifteen (15) occasions from 2009 to 2012, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

837. BOA committed common law fraud upon Mr. Martinez and Ms. Lopez in that it made false statements of fact it knew were false for the purpose of inducing Mr. Martinez and Ms. Lopez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Martinez and Ms. Lopez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

838. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying

mortgages under HAMP and to use unsuspecting borrowers like Mr. Martinez and Ms. Lopez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Martinez and Ms. Lopez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

839. Mr. Martinez and Ms. Lopez suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 44, AURELIO MILIAN AND ASTRID RONDON**

840. On December 16, 2005, Plaintiffs, Aurelio Milian and his wife, Astrid Rondon, executed a mortgage and note for their home located at 2103 Sitka Street, Tampa, Florida in the amount of \$160,000.00 with regular monthly payments set at \$552.19.

841. Subsequently, BOA began servicing the mortgage and the loan was assigned Number 122576542.

842. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

843. In January 2011, BOA loan representative, Monique, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Monique specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure.

BOA representative Monique was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

844. Subsequently, BOA provided Mr. Milian and Mrs. Rondon a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

845. When Mr. Milian and Mrs. Rondon returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Ms. Milian and Mrs. Rondon sent their HAMP application and supporting financial documents to BOA via Federal Express more than six (6) times.

846. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Ms. Milian and Mrs. Rondon the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

847. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible

for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

848. Plaintiffs did not receive any written verification the application was received, but BOA a representative, Monique, verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$1,100.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Milian and Mrs. Rondon to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

849. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

850. Relying on BOA’s misrepresentations, Mr. Milian and Mrs. Rondon made four (4) payments of \$1,100.00 in 2011, hoping to save their home.

851. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Milian and Mrs. Rondon concerning their HAMP application.

852. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016

Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

853. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Milian and Mrs. Rondon's trial payments in an unapplied account and never applied the amounts to their account or gave him credit for the payments, but simply kept the funds for profit.

854. On March 17, 2015 Mr. Milian and Mrs. Rondon's home was foreclosed by US Bank National Association. As a result of the foreclosure, a judgment in the amount of \$229,217.76 was entered against Mr. Milian and Mrs. Rondon, \$69,217.76 more than their original mortgage. Mr. Milian and Mrs. Rondon moved out of their home in 2011.

855. Despite the fact that Mr. Milian and Mrs. Rondon lived in their home until 2011, BOA charged their account for a "Property Inspection" on twenty-one (21) occasions from 2008 to 2011, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiffs' account and added to the judgment amount.

856. BOA committed common law fraud upon Mr. Milian and Mrs. Rondon in that it made false statements of fact it knew were false for the purpose of inducing Mr. Milian and Mrs. Rondon to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Milian and Mrs. Rondon relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.



857. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Milian and Mrs. Rondon to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Milian and Mrs. Rondon relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

858. Mr. Milian and Mrs. Rondon suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 45, HECTOR DANIEL MOJICA**

859. On August 8, 2006, Plaintiff, Hector Daniel Mojica, executed a mortgage and note for his home located at 5610 Larimer Drive, Tampa, Florida in the amount of \$197,600.00 with regular monthly payments set at \$1,366.53. Original Loan Number 303007044 in the amount of \$197,600.00 and Loan Number 3030070425 in the amount of \$49,400.00. The lender was Mortgage Lenders Network USA, Inc.

860. Subsequently, BOA began servicing the mortgage and the loan was assigned number 73719100.

861. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

862. In December 2009, BOA loan representative, Carl, advised Plaintiff by phone to refrain from making his regular mortgage payments. Carl specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Carl was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

863. Subsequently, BOA provided Mr. Mojica a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

864. When Mr. Mojica returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Mojica sent his HAMP application and supporting financial documents to BOA via U. S. Mail and Federal Express more than four (4) times.

865. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Mr. Mojica the Bank had no information regarding his HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

866. Relying on the misrepresentations by BOA employees, Plaintiff sent the HAMP application and financial documents via Fax and U.S. Mail over and over, and as a result,

incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

867. Plaintiff did not receive any written verification the application was received, but BOA representative, Carl, verbally informed Plaintiff he was approved and requested he make “trial payments” of \$1,600.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Mojica to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

868. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

869. Relying on BOA’s misrepresentations, Mr. Mojica made three (3) payments of more than \$1,600.00 in 2010, hoping to save his home.

870. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Mojica concerning their HAMP application.

871. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

872. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Mojica's trial payments in an unapplied account and never applied the amounts to their account or gave him credit for the payments, but simply kept the funds for profit.

873. On April 28, 2010, Mr. Mojica's home was foreclosed by Wells Fargo Bank, NA. As a result of the foreclosure, a judgment in the amount of \$272,130.56 was entered against Mr. Mojica, \$74,530.56 more than his original mortgage. Mr. Mojica moved out of his home in 2010.

874. Despite the fact that Mr. Mojica lived in his home until 2010, BOA charged his account for a "Property Inspection" on forty-six (46) occasions from 2007 to 2010, all while he was living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

875. BOA committed common law fraud upon Mr. Mojica in that it made false statements of fact it knew were false for the purpose of inducing Mr. Mojica to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Mojica relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

876. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Mojica to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed

to in 2009. Mr. Mojica relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

877. Mr. Mojica suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 46, MARISOL PENARANDA AND GUSTAVO PENARANDA**

878. On May 3, 2004, Plaintiffs, Marisol Penaranda and her husband, Gustavo Penaranda, executed a mortgage and note for their home located at 3110 Moran Road, Tampa, Florida in the amount of \$190,000.00 with regular monthly payments set at \$1,687.65. The lender was Bank of America, N.A.

879. Subsequently, BOA began servicing the mortgage and the loan was assigned number 22827122.

880. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

881. In May 2010, BOA loan representative, Barbara, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Barbara specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Barbara was specifically instructed to make this false statement to Plaintiffs and

other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

882. Subsequently, BOA provided Mrs. and Mr. Penaranda a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

883. When Mrs. and Mr. Penaranda returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mrs. and Mr. Penaranda sent their HAMP application and supporting financial documents to BOA via U. S. Mail, Federal Express and hand delivered to a local branch more than two (2) times.

884. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mrs. and Mr. Penaranda the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

885. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible

for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

886. Plaintiffs did not receive any written verification the application was received, but BOA representative Barbara verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$1,400.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mrs. and Mr. Penaranda to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

887. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

888. Relying on BOA’s misrepresentations, Mrs. and Mr. Penaranda made three (3) payments of more than \$1,400.00 in 2010, hoping to save their home.

889. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mrs. and Mr. Penaranda concerning their HAMP application.

890. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016

Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

891. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mrs. and Mr. Penaranda's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

892. On September 16, 2010, Mrs. and Mr. Penaranda's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$208,706.46 was entered against Mrs. and Mr. Penaranda, \$18,706.46 more than their original mortgage. Mrs. and Mr. Penaranda moved out of their home in 2011.

893. Despite the fact that Mrs. and Mr. Penaranda lived in their home until 2011, BOA charged their account for a "Property Inspection" on twenty-six (26) occasions from 2008 to 2011, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

894. BOA committed common law fraud upon Mrs. and Mr. Penaranda in that it made false statements of fact it knew were false for the purpose of inducing Mrs. and Mr. Penaranda to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mrs. and Mr. Penaranda relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.



895. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mrs. and Mr. Penaranda to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mrs. and Mr. Penaranda relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

896. Mrs. and Mr. Penaranda suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 47, MARIA TOVAR AND MIGUEL AGUADO**

897. On March 16, 2007, Plaintiffs, Maria Tovar and her husband, Miguel Aguado, executed a mortgage and note for their home located at 708 Parson Street SW, Ruskin, Florida in the amount of \$176,000.00 with regular monthly payments set at \$1,446.94. The lender was AEGIS Wholesale Corporation.

898. Subsequently, BOA began servicing the mortgage and the loan was assigned number 159801803.

899. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

900. In November 2011, BOA loan representative, Carlos, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Carlos specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Carlos was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

901. Subsequently, BOA provided Mrs. Tovar and Mr. Aguado a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

902. When Mrs. Tovar and Mr. Aguado returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mrs. Tovar and Mr. Aguado sent their HAMP application and supporting financial documents to BOA via U. S. Mail and fax more than six (6) times.

903. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mrs. Tovar and Mr. Aguado the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

904. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents via fax and U. S. Mail over and over as a result of misrepresentations by BOA employees.

905. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Carlos, verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$900.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mrs. Tovar and Mr. Aguado to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

906. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

907. Relying on BOA’s misrepresentations, Mrs. Tovar and Mr. Aguado made three (3) payments of more than \$900.00 in 2011, hoping to save their home.

908. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mrs. Tovar and Mr. Aguado concerning their HAMP application.

909. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016

Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

910. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mrs. Tovar and Mr. Aguado's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

911. On July 19, 2012, Mrs. Tovar and Mr. Aguado's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$228,045.66 was entered against Mrs. Tovar and Mr. Aguado, \$52,046.66 more than their original mortgage. Mrs. Tovar and Mr. Aguado moved out of their home in 2012.

912. Despite the fact that Mrs. Tovar and Mr. Aguado lived in their home until 2012, BOA charged their account for a "Property Inspection" on twenty-nine (29) occasions from 2009 to 2012, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

913. BOA committed common law fraud upon Mrs. Tovar and Mr. Aguado in that it made false statements of fact it knew were false for the purpose of inducing Mrs. Tovar and Mr. Aguado to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mrs. Tovar and Mr. Aguado relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

914. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mrs. Tovar and Mr. Aguado to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mrs. Tovar and Mr. Aguado relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

915. Mrs. Tovar and Mr. Aguado suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 48, FERNANDO R. CALDERON AND SANDRA CRISTINA BRAVO**

916. On May 1, 2006, Plaintiffs, Fernando R. Calderon and his wife, Sandra Cristina Bravo, executed a mortgage and note for their home located at 18422 Snowdonia Drive, Land O'Lakes, Florida in the amount of \$262,150.00 with regular monthly payments set at \$1,611.11. The lender was Bank of America, NA.

917. Subsequently, BOA began servicing the mortgage and the loan was assigned number 119296780.

918. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

919. In July 2011, BOA loan representative, Susana, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Susana specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Susana was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

920. Subsequently, BOA provided Mr. Calderon and Mrs. Bravo a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

921. When Mr. Calderon and Mrs. Bravo returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Mr. Calderon and Mrs. Bravo sent their HAMP application and supporting financial documents to BOA via Federal Express more than four (4) times.

922. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Mr. Calderon and Mrs. Bravo the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

923. Relying on the misrepresentations by BOA employees, Plaintiffs sent them HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

924. Plaintiffs did not receive any written verification the application was received, but BOA representative Susanna verbally informed Plaintiffs they were approved and requested they make “trial payments” of more than \$1,600.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Calderon and Mrs. Bravo to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

925. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

926. Relying on BOA’s misrepresentations, Mr. Calderon and Mrs. Bravo made three (3) payments of \$1,600.00 in 2011, hoping to save their home.

927. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Calderon and Mrs. Bravo concerning their HAMP application.

928. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

929. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Calderon and Mrs. Bravo's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

930. On December 10, 2013, Mr. Calderon and Mrs. Bravo's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$392,357.56 was entered against Mr. Calderon and Mrs. Bravo, \$30,207.56 more than their original mortgage. Mr. Calderon and Mrs. Bravo moved out of their home in 2013.

931. Despite the fact that Mr. Calderon and Mrs. Bravo lived in their home until 2013, BOA charged their account for a "Property Inspection" on forty (40) occasions from 2008 to 2013, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiffs' account and added to the judgment amount.

932. BOA committed common law fraud upon Mr. Calderon and Mrs. Bravo in that it made false statements of fact it knew were false for the purpose of inducing Mr. Calderon and Mrs. Bravo to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Calderon and Mrs.



Bravo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

933. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Calderon and Mrs. Bravo to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Calderon and Mrs. Bravo relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

934. Mr. Calderon and Mrs. Bravo suffered damages including but not limited to the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 49, NORBERTO GARCIA**

935. On May 30, 2006, Plaintiff, Norberto Garcia, executed a mortgage and note for his home located at 2510 W. Main Street, Tampa, Florida in the amount of \$150,000.00 with regular monthly payments set at \$1,228.59. The lender was New Century Mortgage Corporation.

936. Subsequently, BOA began servicing the mortgage and the loan was assigned number 73192554.

937. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

938. In June 2011, BOA loan representative, Veronica Diaz, advised Plaintiff by phone to refrain from making his regular mortgage payments. Veronica Diaz specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Veronica Diaz was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

939. Subsequently, BOA provided Mr. Garcia a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

940. When Mr. Garcia returned the application along with supporting financial documents, he was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Garcia sent his HAMP application and supporting financial documents to BOA via Federal Express more than ten (10) times.

941. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Mr. Garcia the Bank had no information regarding his HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as

well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

942. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

943. Plaintiff did not receive any written verification the application was received, but BOA representative Veronica Diaz verbally informed Plaintiffs he was approved and requested he make “trial payments” of \$700.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. Garcia to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to his account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

944. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

945. Relying on BOA’s misrepresentations, Mr. Garcia made three (3) payments of \$700.00 in 2011, hoping to save his home.

946. Despite making his trial payments, Plaintiff never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Garcia concerning his HAMP application.

947. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

948. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Garcia's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

949. On May 10, 2012, Mr. Garcia's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$238,209.77 was entered against Mr. Garcia, \$88,209.77 more than his original mortgage. Mr. Garcia moved out of his home in 2012.

950. Despite the fact that Mr. Garcia lived in his home until 2012, BOA charged his account for a "Property Inspection" on twenty-six (26) occasions from 2008 to 2010, all while they were living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

951. BOA committed common law fraud upon Mr. Garcia in that it made false statements of fact it knew were false for the purpose of inducing Mr. Garcia to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Garcia relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

952. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Garcia to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Garcia relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

953. Mr. Garcia suffered damages including but not limited to the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 50, CAROLINA ZALAZAR**

954. On July 13, 2007, Plaintiff, Carolina V. Zalazar, executed a mortgage and note for her home located at 7330 Wes Pocahontas Avenue, Tampa, Florida in the amount of \$155,700.00 with regular monthly payments set at \$1,035.88. The lender was Bank of America, N.A.

955. Subsequently, BOA began servicing the mortgage and the loan was assigned number 870650820.

956. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

957. In January 2011, BOA loan representative, Noah, advised Plaintiff by phone to refrain from making her regular mortgage payments. Noah specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This

statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Noah was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

958. Subsequently, BOA provided Ms. Zalazar a HAMP application and she properly completed the application and returned it to BOA with supporting financial documents.

959. When Ms. Zalazar returned the application along with supporting financial documents, she was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Ms. Zalazar sent her HAMP application and supporting financial documents to BOA via Federal Express more than five (5) times.

960. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Ms. Zalazar the Bank had no information regarding her HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

961. Relying on the misrepresentations by BOA employees, Plaintiff sent her HAMP application and financial documents via Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a

mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

962. Plaintiff did not receive any written verification the application was received, but BOA representative Noah verbally informed Plaintiff she was approved and requested she make “trial payments” of more than \$500.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Ms. Zalazar to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

963. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

964. Relying on BOA’s misrepresentations, Ms. Zalazar made three (3) payments of \$500.00 in 2011, hoping to save her home.

965. Despite making her trial payments, Plaintiff never received written confirmation of the approval of her application for a HAMP modification. Subsequently, despite her efforts, BOA refused to respond to Ms. Zalazar concerning her HAMP application.

966. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

967. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Ms. Zalazar's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

968. On November 20, 2013, Ms. Zalazar's home was foreclosed by Federal National Mortgage Association. As a result of the foreclosure, a judgment in the amount of \$222,954.91 was entered against Ms. Zalazar, \$67,254.91 more than her original mortgage. Ms. Zalazar moved out of her home in 2014.

969. Despite the fact that Ms. Zalazar lived in her home until 2014, BOA charged her account for a "Property Inspection" on twenty-one (21) occasions from 2010 to 2014, all while she was living in the home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiff's account and added to the judgment amount.

970. BOA committed common law fraud upon Ms. Zalazar in that it made false statements of fact it knew were false for the purpose of inducing Ms. Zalazar to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Ms. Zalazar relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

971. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Ms. Zalazar to cover and



conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Ms. Zalazar relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

972. Ms. Zalazar suffered damages including but not limited to the costs for sending her HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of her home and the equity in that home, and the loss of future equity in the home, as well as damage to her credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to inspection fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFF # 51, RAFAEL PAZ**

973. On September 16, 2005, Plaintiff, Rafael Paz, executed a mortgage and note for his home located at 2322 St John St. W. Tampa, Hillsborough County, Florida in the amount of \$169,100.00 with regular monthly payments set at \$1,324.28. The lender was America's Wholesale Lender.

974. Subsequently, BOA began servicing the mortgage and the loan was assigned number 114135822.

975. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

976. In October 2010, BOA loan representative, Johnny, advised Mr. Paz by phone to refrain from making his regular mortgage payments. Johnny specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Mr. Paz up for foreclosure. BOA

representative Johnny was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

977. Subsequently, BOA sent Mr. Paz a HAMP application and Mr. Paz properly completed the application and returned it to BOA with supporting financial documents.

978. When Mr. Paz returned the application along with his supporting financial documents, he was falsely informed the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Paz sent his HAMP application and supporting financial documents to BOA via mail, and even delivered them to a local BOA branch office more than four (4) times.

979. Mr. Paz was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit his application. Many times BOA employees falsely informed Mr. Paz they had no information regarding his HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

980. Relying on the misrepresentations by BOA employees, Mr. Paz mailed and hand delivered his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

981. Mr. Paz did not receive any written verification that his application was received, but a BOA representative, Johnny, verbally informed Mr. Paz he was approved and requested he make “trial payments” of \$1,327.83 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as Mr. Paz wasn’t approved. This statement was intended to cause Mr. Paz to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Mr. Paz to send funds so BOA could apply the funds to fraudulent fees it charged to his account, thereby generating fraudulent profits for BOA.

982. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

983. Relying on the misrepresentations by BOA, Plaintiff made three (3) payments of \$1,372.83 in 2010 hoping to save his home.

984. Despite making his trial payments, Mr. Paz never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Ms. Paz concerning his HAMP application.

985. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

986. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Paz’s trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

987. On October 30, 2012, Mr. Paz's home was foreclosed by Bank of America, NA. As a result of the foreclosure, BOA secured a judgement in the amount of \$234,012.57 against Mr. Paz, \$64,912.57 more than his original mortgage.

988. Despite the fact Mr. Paz lived in his home until 2011 BOA charged Mr. Paz's account for a "Property Inspection" on twenty-seven (27) occasions in 2010 and 2011. BOA even charged Plaintiff for two (2) property inspections in the month of May 2010 and two inspections on the same day in August, September and October 2010 for a total of six (6) inspections on three different days in those three months, all while Mr. Paz was living in his home. These fees are but one example of the fraudulent charges for which BOA applied Mr. Paz's trial payments and profited.

989. BOA committed common law fraud upon Mr. Paz in that it made false statements of fact it knew were false for the purpose of inducing Mr. Paz to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Paz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

990. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Paz to cover and conceal the Bank's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Paz relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

991. Mr. Paz suffered damages including but not limited to his time spent, the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of his time spent sending and re-sending his application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFF # 52, CARLOS PEREZ**

992. On February 18, 2004, Plaintiff, Carlos Perez, executed a mortgage and note for his home located at 7109 Hernando Court, Tampa, Hillsborough County, Florida in the amount of \$85,400.00. The lender was America's Wholesale Lender.

993. Subsequently, BOA began servicing the mortgage and the loan was assigned number 73719100.

994. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a modification under HAMP.

995. In June 2010, BOA loan representative, Maria Smith, advised Mr. Perez by phone to refrain from making his regular mortgage payments. Maria Smith specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Mr. Perez up for foreclosure. BOA representative Maria Smith was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

996. Subsequently, BOA provided Mr. Perez a HAMP application and he properly

completed the application and returned it to BOA with supporting financial documentation.

997. When Mr. Perez returned the application along with his supporting financial documents, he was falsely informed the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. Perez sent his HAMP application and supporting financial documents to BOA via fax, mail, and even delivered them to a local BOA branch office more than six (6) times.

998. Mr. Perez was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit his application. Many times BOA employees falsely informed Mr. Perez they had no information regarding his HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

999. Relying on the misrepresentations by BOA employees, Mr. Perez faxed, mailed and hand delivered his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1000. Mr. Perez did not receive any written verification that his application was received, but a BOA representative, Maria Smith verbally informed Mr. Perez he was approved and requested he make "trial payments" of \$752.27 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as Mr. Perez wasn't approved. This

statement was intended to cause Mr. Perez to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Mr. Perez to send funds so BOA could apply the funds to fraudulent fees it charged to his account, thereby generating fraudulent profits for BOA.

1001. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1002. Relying on BOA's misrepresentations, Plaintiff made ten (10) payments of \$752.27 in 2010 hoping to save his home.

1003. Despite making his trial payments, Mr. Perez never received written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Mr. Perez concerning his HAMP application.

1004. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1005. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Perez's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1006. On January 22, 2014, Mr. Perez's home was foreclosed by BOA. As a result of the foreclosure, BOA secured a judgement in the amount of \$120,011.79 against Mr. Perez, \$34,611.79 more than his original mortgage. Mr. Perez moved out of his home in 2014

1007. Despite the fact that Mr. Perez lived in his home, during 2011, 2012, and 2013, BOA charged Mr. Perez's account for a "Property Inspection" on seventeen (17) occasions. BOA even charged Mr. Perez for two (2) property inspections in the month of March 2012. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Mr. Perez's trial payments and profited.

1008. BOA committed common law fraud upon Mr. Perez in that it made false statements of fact it knew were false for the purpose of inducing Mr. Perez to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Perez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1009. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Perez to cover and conceal the Bank's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Perez relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1010. Mr. Perez suffered damages including but not limited to his time spent and the costs of sending his HAMP application on multiple occasions, when BOA had no intention of reviewing it, the loss of his time spent sending and re-sending his application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to



his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied his trail payments and profited.

**FACTUAL ALLEGATIONS –  
PLAINTIFFS # 53, EDDY AND VIANKA MOYA**

1011. On April 17, 2006, Plaintiffs, Eddy and Vianka Moya, executed a mortgage and note for their home located at 4203 Orient Road, Tampa, Hillsborough County, Florida in the amount of \$125,000.

1012. Subsequently, BOA began servicing the mortgage and the loan was assigned number 871417388.

1013. After experiencing financial hardship, due in part to the state of the economy, Mr. Moya contacted BOA by phone in 2010 requesting a HAMP modification.

1014. In March 2010, BOA loan representative, Mrs. E Brown, advised Eddy and Vianka Moya by phone to refrain from making their regular mortgage payments. Mrs. E Brown specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Mr. Perez up for foreclosure. BOA representative Mrs. E Brown was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1015. Subsequently, BOA provided Mr. and Mrs. Moya a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1016. When Mr. and Mrs. Moya returned the application along with supporting financial documents, they were falsely informed by BOA employee, Mrs. E Brown, the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit

the information again and again. Mr. and Mrs. Moya sent their HAMP application and supporting financial documents to BOA via mail and fax more than five (5) times.

1017. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. and Mrs. Moya they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1018. Relying on the misrepresentations by BOA employees, Plaintiffs mailed and hand delivered his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1019. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Mrs. E Brown, Supervisor, verbally informed Plaintiffs they were approved and requested they make "trial payments" of \$490.22 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Moya to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1020. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1021. Relying on BOA's misrepresentations, Mr. and Mrs. Moya made four (4) payments of \$490.22 in 2010, hoping to save their home.

1022. Despite making trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Moya concerning their HAMP application.

1023. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1024. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Moya's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1025. On July 8, 2011, Mr. and Mrs. Moya's home was foreclosed by BOA. As a result of the foreclosure, BOA secured a judgment in the amount of \$125,036.21 against Mr. and Mrs. Moya. Mr. and Mrs. Moya moved out of their home in 2011.

1026. Despite the fact that Mr. and Mrs. Moya lived in their home, until August 2011, BOA charged their account for a "Property Inspection" on nineteen (19) occasions in 2009, 2010 and 2011. BOA even charged Plaintiffs for two (2) property inspections in the month of May 2011, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA

applied Plaintiffs' trial payments and profited.

1027. BOA committed common law fraud upon Mr. and Mrs. Moya in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Moya to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. and Mrs. Moya relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1028. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Moya to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Moya relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1029. Mr. and Mrs. Moya suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS -  
PLAINTIFFS # 54, JOSE MONCADA AND EVELYN MOLINA**

1030. On January 30, 2007, Plaintiffs, Jose Moncada along with his wife, Evelyn Molina, executed a mortgage and note for their home located at 2308 W. Clifton Street, Tampa, Hillsborough County, Florida in the amount of \$164,653.00.

1031. Subsequently, BOA began servicing the mortgage and loan was assigned number 871468444.

1032. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

1033. In November 2010, BOA loan representative, Ms. Alfonso, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Ms. Alfonso specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Mr. Moncada and Ms. Molina up for foreclosure. BOA representative Ms. Alfonso was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1034. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1035. When Plaintiffs returned the application along with their supporting financial documents, they were falsely informed the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via mail more than four (4) times.

1036. Plaintiffs were routinely assigned a new account representative unfamiliar with

the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Plaintiffs they had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1037. Relying on the misrepresentations by BOA employees, Plaintiffs mailed and faxed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1038. Plaintiffs did not receive any written verification that their application was received, but BOA representative Ms. Alfonso verbally informed Plaintiffs they were approved and requested they make "trial payments" of \$1,116.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Mr. and Mrs. Torres to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, or to simply keep in an unapplied account for profit, thereby generating fraudulent profits for BOA.

1039. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or

\$2,000.

1040. Relying on BOA's misrepresentations, Plaintiffs made three (3) payments of \$1,116.00 in 2011 hoping to save their home.

1041. Despite making the trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Moncada and Ms. Molina concerning their HAMP application.

1042. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1043. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Moncada and Ms. Molina's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1044. On November 25, 2014, Mr. Moncada and Ms. Molina's home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$135,324.60 was entered against Mr. Moncada and Ms. Molina. Ms. Moncada and Ms. Molina moved out of their home in 2014.

1045. Despite the fact that Molina lived in their home until November 2014, BOA charged their account for a "Property Inspection" on thirty (30) occasions from 2011 to 2014, all while Plaintiffs were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiff's trial payments and profited.

1046. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1047. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Moncada and Ms. Molina to cover and conceal the Bank's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Moncada and Ms. Molina relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1048. Mr. Moncada and Ms. Molina suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending their application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS -  
PLAINTIFFS # 55, MANUEL BLANCO & LIXIS QUINTOSA**

1049. On July 30, 2007, Plaintiffs, Manuel Blanco and Lixis Quintosa, executed a mortgage and note with BOA for their home located at 6714 W. Chelsea St., Tampa,



Hillsborough County, Florida in the amount of \$199,000.00 with regular monthly payments set at \$1,450.00.

1050. Subsequently, BOA began servicing the mortgage and the loan was assigned number 872821371.

1051. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

1052. In December 2011, BOA loan representative, Eddy, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Eddy specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Eddy was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1053. Subsequently, BOA provided Mr. Blanco and Ms. Quintosa a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1054. When Plaintiffs returned the application along with supporting financial documents, they were falsely informed the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via mail and fax more than three (3) times.

1055. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit their application. Several times

BOA employees falsely informed Plaintiffs the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1056. Relying on the misrepresentations by BOA employees, Plaintiffs mailed and faxed delivered their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1057. Plaintiffs did not receive any written verification that their application was received, but BOA representative Eddy told them it was approved and requested they make “trial payments” of \$972.90 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as Plaintiffs were not approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause them to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1058. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1059. Relying on the misrepresentations by BOA, Plaintiffs made three (3) payments of

\$972.90 in 2011 hoping to save their home.

1060. Despite making the trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification.

1061. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1062. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. Blanco and Ms. Quintosa's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1063. On December 28, 2012, Plaintiffs' home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$261,951.51 was entered against Mr. Blanco and Ms. Quintosa, \$62,951.51 more than their original mortgage. Mr. Blanco and Ms. Quintosa moved out of their home in 2012.

1064. Despite the fact that Plaintiffs lived in the home until August 2011, BOA charged their account for a "Property Inspection" on thirty-four (34) occasions from 2010 to 2012. BOA even charged Plaintiffs for two (2) property inspection in the month of May 2012, all while Mr. Blanco and Ms. Quintosa were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied to Plaintiffs' account and added to the judgement amount.

1065. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those

statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. Blanco and Ms. Quintosa relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1066. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Blanco and Ms. Quintosa to cover and conceal the Bank's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. Blanco and Ms. Quintosa relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1067. Mr. Blanco and Ms. Quintosa suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of their time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS -  
PLAINTIFFS # 56, PEDRO PABLO COLLAZO CRUZ AND ODALYS RODRIGUEZ**

1068. On August 15, 2007, Plaintiffs, Pedro Pablo Collazo Cruz, along with his wife, Odalys Rodriguez, executed a mortgage and note for their home located at 7805 N. Woodlyne Ave., Tampa, Hillsborough County, Florida in the amount of \$205,000.00 with regular monthly

payments set at \$1,823.29. The lender was SCME Mortgage Bankers, Inc.

1069. Subsequently, BOA began servicing the mortgage and the loan was assigned number 173095279.

1070. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

1071. In August 2011, BOA loan representative, Mary Johnson, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Mary Johnson specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Mary Johnson was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1072. Subsequently, BOA provided Plaintiffs a HAMP application at a local branch office and they properly completed the application and returned it to BOA with supporting financial documentation.

1073. When Plaintiffs returned the application along with their supporting financial documents, they were falsely informed the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via Fed Ex and mail more than six (6) times.

1074. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit their application. Many times BOA employees falsely informed Plaintiffs they had no information regarding their HAMP

application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1075. Relying on the misrepresentations by BOA employees, Plaintiffs sent their HAMP application and financial documents by Fed Ex and mail over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1076. Plaintiffs did not receive any written verification that their application was received, but a BOA representative named Mary Smith verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$970.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as Plaintiffs were not approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1077. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1078. Relying on BOA’s misrepresentations, Plaintiffs made six (6) payments of \$970.00 in 2011 hoping to save their home.

1079. Despite making the trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. Machado concerning their HAMP application.

1080. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1081. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1082. On May 16, 2012, Plaintiff's home was foreclosed by BOA. As a result of the foreclosure, a judgement in the amount of \$290,899.04 was entered against Mr. Collazo Cruz and Ms. Rodriguez, \$85,899.04 more than their original mortgage. Mr. Collazo Cruz and Ms. Rodriguez moved out of their home in 2012.

1083. Despite the fact that Plaintiffs lived in their home until 2012, during 2009, 2010, 2011, and 2012, BOA charged Plaintiff's account for a "Property Inspection" on twenty-three (23) occasions. BOA even charged Plaintiff for two (2) property inspection in the month of October 2010. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiff's trial payments and profited.

1084. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for

profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1085. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. Collazo Cruz and Ms. Rodriguez to cover and conceal the Bank's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1086. Plaintiffs suffered damages including but not limited to the time spent and the costs for sending their HAMP application on multiple occasions, when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied their trail payments and profited.

**FACTUAL ALLEGATIONS –  
PLAINTIFFS # 57, JOSE ESPINEL AND LUISA ESPINEL**

1087. On April 17, 2006, Plaintiffs, Jose and Luisa Espinel, executed a mortgage and note for their home located at 8212 Pennywell Place, Tampa, Hillsborough County, Florida in the amount of \$121,000.00. The lender was Countrywide Home Loans, Inc.

1088. Subsequently, BOA began servicing the mortgage and the loan was assigned number 15242275.



1089. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

1090. In July 2011, BOA loan representatives, Ana and Maria, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Ana and Maria specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Ana and Maria was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1091. Subsequently, BOA provided Mr. and Mrs. Espinel a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1092. When Mr. and Mrs. Espinel returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. and Mrs. Espinel sent their HAMP application and supporting financial documents to BOA via mail and fax and Fed Ex more than six (6) times.

1093. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. and Mrs. Espinel they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining

modification applications in a given day or week.

1094. Relying on the misrepresentations by BOA employees, Plaintiffs mailed and hand delivered their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1095. Plaintiffs did not receive any written verification the application was received, but BOA representative Maria verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$926.99 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. and Mrs. Espinel to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1096. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1097. Relying on BOA’s misrepresentations, Mr. and Mrs. Espinel made at least six (6) payments of \$926.99 in 2010 and 2011, hoping to save their home.

1098. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Espinel concerning their HAMP application.

1099. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1100. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Espinel's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1101. On February 26, 2015, Mr. and Mrs. Espinel's home was foreclosed. As a result of the foreclosure, a judgement in the amount of \$165,807.61 was entered against Mr. and Mrs. Espinel. Mr. and Mrs. Espinel moved out of their home in 2016.

1102. Despite the fact that Mr. and Mrs. Espinel lived in their home, until 2016, BOA charged their account for a "Property Inspection" on forty-two (42) occasions from 2010 to 2013. BOA even charged Plaintiffs for two (2) property inspections on the same day in August 2010, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1103. BOA committed common law fraud upon Mr. and Mrs. Espinel in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Espinel to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Mr. and Mrs. Espinel relied on BOA's

false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1104. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Espinel to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Espinel relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1105. Mr. and Mrs. Espinel suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS -  
PLAINTIFFS # 58, FRANCISCO CARDENAS AND ELSA CARDENAS**

1106. On October 30, 2007, Plaintiffs, Francisco Cardenas and Elsa Cardenas executed a mortgage and note for their home located at 6928 Marble Fawn Place, Tampa, Hillsborough County, Florida in the amount of \$169,000.00 with regular monthly payments set at \$1,194.10. The lender was Countrywide Home Loans, Inc.

1107. Subsequently, BOA began servicing the mortgage and the loan was assigned number 182220998.

1108. After experiencing financial hardship, due in part to the state of the economy,

Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

1109. In December 2011, BOA loan representative, Sheila Ross, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Sheila Ross specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Sheila Ross was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1110. Subsequently, BOA provided Mr. and Mrs. Cardenas a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1111. When Mr. and Mrs. Cardenas returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Mr. and Mrs. Cardenas sent their HAMP application and supporting financial documents to BOA via mail more than three (3) times.

1112. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Mr. and Mrs. Cardenas they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining

modification applications in a given day or week.

1113. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1114. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Sheila Rios verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$963.67 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Mr. and Mrs. Cardenas to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1115. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1116. Relying on BOA’s misrepresentations, Mr. and Mrs. Cardenas made three (3) payments of \$936.67 in 2012, hoping to save their home.

1117. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Mr. and Mrs. Cardenas concerning their HAMP application.

1118. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1119. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Mr. and Mrs. Cardenas's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1120. On December 18, 2015, Mr. and Mrs. Cardenas home was foreclosed by BOA. As a result of the foreclosure, a judgment in the amount of \$179,821.91 was entered against Mr. and Mrs. Cardenas, \$10,721.91 more than their original mortgage. Subsequently, Mr. and Mrs. Cardenas moved out of their home in 2016.

1121. Despite the fact that Mr. and Mrs. Cardenas lived in their home, until 2016, BOA charged their account for a "Property Inspection" on fifteen (15) occasions from 2012 to 2015. BOA even charged Plaintiffs for two (2) property inspections in the same month in June 2015, all while they were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1122. BOA committed common law fraud upon Mr. and Mrs. Cardenas in that it made false statements of fact it knew were false for the purpose of inducing Mr. and Mrs. Cardenas to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good

faith processing of Plaintiffs' modification application. Mr. and Mrs. Cardenas relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1123. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Mr. and Mrs. Cardenas to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Mr. and Mrs. Cardenas relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1124. Mr. and Mrs. Cardenas suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS -  
PLAINTIFFS # 59, QUIRINO AND VICTORIA GONZALEZ AND SARA GONZALEZ**

1125. In 2006, Plaintiffs, Quirino and Victoria Gonzalez along with Sara Gonzalez, executed a mortgage and note for their home located at 4525 Paris Street, Tampa, Hillsborough County, Florida in the amount of \$161,250.00. The original lender was FTM Mortgage Company.

1126. Subsequently, BOA began servicing the mortgage and the loan was assigned number 143473139.



1127. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

1128. In July 2010, BOA loan representative, Lili, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Lili specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Lili was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1129. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1130. When Plaintiffs returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via mail, Fed Ex and hand delivery to a local branch more than five (5) times.

1131. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Plaintiffs they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1132. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1133. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Lili, verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$600.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1134. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1135. Relying on BOA’s misrepresentations, Plaintiffs made three (3) payments of \$600.00 in 2011, hoping to save their home.

1136. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application.

1137. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016

Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1138. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept the Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1139. Plaintiffs moved out of their home in 2011 after receiving notices of foreclosure and other collection letters from BOA.

1140. On April 4, 2013, Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$196,619.37 was entered against Plaintiffs, \$35,369.37 more than their mortgage.

1141. Despite the fact that Plaintiffs lived in their home, until 2011, BOA charged their account for a "Property Inspection" on thirteen (13) occasions in 2010. BOA even charged Plaintiffs for two (2) property inspections on the same day in July 2010, four (4) property inspections on September 2010 and two (2) property inspections in November 2010, all while Plaintiffs were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1142. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on

those false statements and as a result suffered actual damages as described in this Complaint.

1143. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Quirino and Victoria Gonzalez along with Sara Gonzalez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1144. Plaintiffs suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent inspection fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS -  
PLAINTIFFS # 60, LIDICIS OCAMPO and ALBERTO GONZALEZ**

1145. In August 2007, Plaintiffs, Lidicis Ocampo and Alberto Gonzalez executed a mortgage and note for their home located at 2255 Geneva Drive, Lakeland, Polk County, Florida in the amount of \$204,250.00. The original lender was Countrywide KB Home Loans, a Countrywide Mortgage.

1146. Subsequently, BOA began servicing the mortgage and the loan was assigned number 178809198.

1147. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

1148. In July 2009, BOA loan representative, Nicole, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Nicole specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Nicole was specifically instructed to make this false statement to Plaintiff and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1149. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1150. When Plaintiff returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via facsimile and mail more than five (5) times.

1151. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Plaintiff they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1152. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their

HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1153. Plaintiffs did not receive any written verification the application was received, but BOA representative Nicole verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$1,350.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Plaintiff to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to his account, thereby generating fraudulent profits for BOA.

1154. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1155. Relying on BOA’s misrepresentations, Plaintiff made three (3) payments of \$1,350.00 in 2009, hoping to save their home.

1156. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application.

1157. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia*

*Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1158. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept the Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1159. Plaintiffs moved out of their home in December 2010 after receiving notices of foreclosure and other collection letters from BOA.

1160. On January 5, 2012, Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$250,472.19 was entered against Plaintiffs, \$46,222.19 more than their mortgage.

1161. Despite the fact that Plaintiffs lived in their home, until 2010, BOA charged their account for a "Property Inspection" on two (2) occasions in 2010, all while Plaintiffs were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1162. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiff's trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1163. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA")

in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Lidicis Ocampo and Alberto Gonzalez to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1164. Plaintiffs suffered damages including but not limited to his time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 61, FRANKLIN AND LUISA TORRES**

1165. In 2000, Plaintiffs, Franklin and Luisa Torres executed a mortgage and note for their home located at 1605 Elk Spring Drive, Brandon, Hillsborough County, Florida in the amount of \$172,336.50.

1166. Subsequently, BOA began servicing the mortgage and the loan was assigned number 189476766.

1167. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

1168. In July 2010, BOA loan representative, George, advised Plaintiffs by phone to refrain from making their regular mortgage payments. George specifically told Plaintiffs being



past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative George was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1169. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1170. When Plaintiffs returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again.

1171. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Plaintiffs they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1172. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over as a result of misrepresentations by BOA employees.

1173. Plaintiffs did not receive any written verification the application was received, but

BOA representative George verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$1,000.00 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1174. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1175. Relying on BOA’s misrepresentations, Plaintiffs made three (3) payments of \$1,000.00 in 2010, hoping to save their home.

1176. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application. Thereafter, Plaintiffs continued to make their regular monthly payments.

1177. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1178. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs’ trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1179. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1180. Plaintiffs moved out of their home in 2010 after receiving notices of foreclosure and other collection letters from BOA.

1181. On December 3, 2013, Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$172,336.50, was entered against Plaintiffs, \$66,558.01 more than their mortgage.

1182. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1183. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Franklin and Luisa Torres to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1184. Plaintiffs suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of

reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS -  
PLAINTIFFS # 62, EDELSON CARMENATES AND IRANIA LLAGO**

1185. In August 2006, Plaintiffs, Edelson Carmenates and Irania Llago, executed a mortgage and note for their home located at 3220 King Dr. Sebring, Highlands County, Florida in the amount of \$125,400.00. The original lender was Mortgage Lenders Network USA, Inc.

1186. Subsequently, BOA began servicing the mortgage and the loan was assigned number 74039772.

1187. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

1188. In June 2009, BOA loan representative, Christine, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Christine specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Christine was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1189. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1190. When Plaintiffs returned the application along with supporting financial

documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via fax, mail and even delivered them to a local BOA branch office more than four (5) times.

1191. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Plaintiffs they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1192. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1193. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Christine, verbally informed Plaintiffs they were approved and requested they make "trial payments" of \$500.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send

funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1194. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1195. Relying on BOA's misrepresentations, Plaintiffs made five (5) payments of \$500.00 in 2009, hoping to save their home.

1196. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application.

1197. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1198. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1199. On June 8, 2010, Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$139,404.91 was entered against Plaintiffs, \$14,004.91 more than their mortgage. Plaintiffs moved out of their home in 2010.

1200. Despite the fact that Plaintiffs lived in their home, until 2010, BOA charged their account for a "Property Inspection" on fourteen (14) occasions in 2009 and 2010. BOA even charged Plaintiffs for two (2) property inspections in the same month in July 2009, November

2009 and March 2010, all while Plaintiffs were living in their home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1201. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1202. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like, Edeldo Carmenates and Irania Llago to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1203. Plaintiffs suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 63, DAVID FIGUEROA AND LAZARA SOSA**

1204. In July 2008, Plaintiffs, David Figueroa and Lazara Sosa, executed a mortgage and note for their home located at 9612 Simeon Dr., Land O'Lakes, Pasco County, Florida in the amount of \$166,250.00. The original lender was Countrywide KB Home Loans, LLC.

1205. Subsequently, BOA began servicing the mortgage and the loan was assigned number 192628359.

1206. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

1207. In December 2013, BOA loan representative, Ms. Johnson advised Plaintiffs by phone to refrain from making their regular mortgage payments. Ms. Johnson specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Ms. Johnson was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1208. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1209. When Plaintiffs returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via Fed Ex and mail more than three (3) times.

1210. Plaintiffs were routinely assigned a new account representative unfamiliar with



the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Plaintiffs they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1211. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1212. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Ms. Johnson, verbally informed Plaintiffs they were approved and requested they make "trial payments" of \$897.11 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1213. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1214. Relying on BOA's misrepresentations, Plaintiffs made three (3) payments of \$897.11 starting in 2013, hoping to save their home.

1215. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application.

1216. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1217. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1218. On August 20, 2014, Plaintiffs' home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$223,683.70, was entered against Plaintiffs, \$57,433.70 more than their mortgage. Plaintiffs moved out of their home in 2014.

1219. Despite the fact that Plaintiffs lived in their home, until 2014, BOA charged their account for a "Vacant Property Registration" on three (3) occasions in 2012 and 2013. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1220. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing

Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1221. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers, like Mr. Figueroa and Ms. Sosa, to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1222. Plaintiffs suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 64, TEODOSIA RIVERA, SANDRA RIVERA JONES**  
**AND VERNON C. JONES, JR.**

1223. In October 2006, Plaintiffs, Teodosia Rivera, Sandra Rivera Jones and Vernon C. Jones, Jr., executed a mortgage and note for their home located at 933 Noding Shade Dr., Brooksville, Hernando County, Florida in the amount of \$236,900.00. The original lender was America Brokers Conduit.

1224. Subsequently, BOA began servicing the mortgage and the loan was assigned

number 146422038.

1225. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

1226. In September 2011, BOA loan representative, Juan Carlos, advised Plaintiffs by phone to refrain from making their regular mortgage payments. Juan Carlos specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Juan Carlos was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1227. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1228. When Plaintiffs returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via Fed Ex and mail, and even delivered them to a local BOA branch more than four (4) times.

1229. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Plaintiffs they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as

well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1230. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1231. Plaintiffs did not receive any written verification the application was received, but a BOA representative, Juan Carlos, verbally informed Plaintiffs they were approved and requested they make “trial payments” of \$786.35 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1232. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1233. Relying on BOA’s misrepresentations, Plaintiffs made three (3) payments of \$786.35 in 2012, hoping to save their home.

1234. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application.

1235. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1236. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1237. On October 31, 2013, Plaintiffs' home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$281,632.62 was entered against Plaintiffs, \$44,732.62 more than their mortgage. Plaintiffs moved out of their home in 2013.

1238. Despite the fact that Plaintiffs lived in their home, until 2012, BOA charged their account for a "Property Inspection" on fourteen (14) occasions in 2010 and 2011. BOA even charged Plaintiffs for two property inspection in the same month in August 2011. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1239. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1240. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA")

in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like, Teodosia Rivera, Sandra Rivera Jones and Vernon C. Jones, Jr., to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1241. Plaintiffs suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFF # 65, EVARISTA RUIZ**

1242. In July 2006, Plaintiff, Evarista Ruiz, executed a mortgage and note for her home located at 1741 W. Powhatan Ave, Tampa, Hillsborough County, Florida in the amount of \$160,000.00. The original lender was Decision One Mortgage Company, LLC.

1243. Subsequently, BOA began servicing the mortgage and the loan was assigned number 73223190.

1244. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

1245. In July 2011, BOA loan representative, Maria, advised Plaintiff by phone to refrain from making her regular mortgage payments. Maria specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This

statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Maria was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1246. Subsequently, BOA provided Plaintiff a HAMP application and she properly completed the application and returned it to BOA with supporting financial documents.

1247. When Plaintiff returned the application along with supporting financial documents, she was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Plaintiff sent her HAMP application and supporting financial documents to BOA via mail and fax more than five (5) times.

1248. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Plaintiff they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1249. Relying on the misrepresentations by BOA employees, Plaintiff mailed her HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage



modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1250. Plaintiff did not receive any written verification the application was received, but a BOA representative, Maria, verbally informed Plaintiff she was approved and requested she make “trial payments” of \$573.50 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Plaintiff to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to her account, thereby generating fraudulent profits for BOA.

1251. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1252. Relying on BOA’s misrepresentations, Plaintiff made three (3) payments of \$573.50 in 2011, hoping to save her home.

1253. Despite making their trial payments, Plaintiff never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite her efforts, BOA refused to respond to Plaintiff concerning their HAMP application.

1254. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1255. Upon information and belief, and upon sworn testimony of the Defendant, BOA

kept Plaintiff's trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1256. On April 12, 2012, Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$231,333.65 was entered against Plaintiff, \$31,333.65 more than her original mortgage obligation. Plaintiff moved out of her home in 2013.

1257. Despite the fact that Plaintiff lived in her home, until 2013, BOA charged her account for a "Property Inspection" on forty-five (45) occasions from 2008 to 2012. BOA even charged Plaintiffs for two (2) property inspections in the same month in June 2010 and March 2012, all while Plaintiff was living in her home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1258. BOA committed common law fraud upon Plaintiff in that it made false statements of fact it knew were false for the purpose of inducing Plaintiff to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiff relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1259. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Ms. Ruiz to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiff relied on BOA's false statements and acted on those false statements and as

a result suffered actual damages.

1260. Plaintiff suffered damages including but not limited to her time spent, the costs for sending her HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of her home and the equity in that home, and the loss of future equity in the home, as well as damage to her credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied her trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFFS # 66, RUBEN AND BETTY SPITALERI**

1261. In August 2007, Plaintiffs, Ruben and Betty Spitaleri, executed a mortgage and note for their home located at 3025 NE 25 St, Ocala, Marion County, Florida in the amount of \$159,992.00. The lender was Countrywide Bank, FSB.

1262. Subsequently, BOA began servicing the mortgage and the loan was assigned number 177839245.

1263. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2010 requesting a HAMP modification.

1264. In July 2010, BOA loan representative, LaToya, advised Plaintiffs by phone to refrain from making their regular mortgage payments. LaToya specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative LaToya was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1265. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1266. When Plaintiffs returned the application along with supporting financial documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via mail and fax more than ten (10) times.

1267. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times BOA employees falsely informed Plaintiffs they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1268. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1269. Plaintiffs did not receive any written verification the application was received, but BOA representative LaToya verbally informed Plaintiffs they were approved and requested they make "trial payments" of \$806.00 pursuant to the Federal Government's Home Affordable

Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1270. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1271. Relying on BOA's misrepresentations, Plaintiffs made seven (7) payments of \$806.00 in 2010, hoping to save their home.

1272. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application.

1273. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1274. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1275. April 18, 2016, Plaintiffs' home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$209,066.43 was entered against Plaintiffs \$49,074.43 more than their original mortgage obligation. Plaintiffs moved out of their home in 2015.

1276. Despite the fact that Plaintiffs lived in their home until 2015, BOA charged their account for a “Property Inspection” on eleven (11) occasions from 2008 to 2011. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs’ trial payments and profited.

1277. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs’ modification application. Plaintiffs relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1278. BOA violated Florida’s Deceptive and Unfair Trade Practices Act (“FDUTPA”) in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like, Ruben and Betty Spitaleri to cover and conceal the mortgage servicer’s fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA’s false statements and acted on those false statements and as a result suffered actual damages.

1279. Plaintiffs suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied

their trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFF # 67, HOSMERT VERGARA**

1280. In March 2007, Plaintiff, Hosmert Vergara, executed a mortgage and note for his home located at 3005 E. Genesee, Tampa, Hillsborough County, Florida in the amount of \$171,000.00. The original lender was America's Wholesale Lender.

1281. Subsequently, BOA began servicing the mortgage and the loan was assigned number 1664701520.

1282. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

1283. In July 2012, BOA loan representative, Martha, advised Plaintiff by phone to refrain from making his regular mortgage payments. Martha specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Martha was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1284. Subsequently, BOA provided Plaintiff a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

1285. When Plaintiff returned the application along with supporting financial documents, he was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Plaintiff sent his HAMP application and supporting financial documents to BOA via Fed Ex and fax more than three (3) times.

1286. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Plaintiff they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1287. Relying on the misrepresentations by BOA employees, Plaintiff mailed his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1288. Plaintiff received written verification the application was received and approved from BOA and the letter requested he make "trial payments" of \$579.00 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Plaintiff to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to his account, thereby generating fraudulent profits for BOA.

1289. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.



1290. Relying on BOA's misrepresentations, Plaintiff made three (3) payments of \$579.00 in 2012, hoping to save his home.

1291. Despite making his trial payments, Plaintiff never received final written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Plaintiff concerning their HAMP application.

1292. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1293. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiff's trial payments in an unapplied account and never applied the amounts to his account or gave him credit for the payments, but simply kept the funds for profit.

1294. On August 16, 2016, Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$231,333.65 was entered against Plaintiff, \$60,333.65 more than his original mortgage obligation.

1295. Despite the fact that Plaintiff lived in his home, until 2016, BOA charged his account for a "Property Inspection" on forty (40) occasions from 2010 to 2015. BOA even charged Plaintiffs for two (2) property inspections in the same month in December 2011, all while Plaintiff was living in his home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiff's trial payments and profited.

1296. BOA committed common law fraud upon Plaintiff in that it made false statements of fact it knew were false for the purpose of inducing Plaintiff to rely on those statements. By

making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiff relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1297. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Hosmert Vergara to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiff relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1298. Plaintiff suffered damages including but not limited to his time spent, the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS  
PLAINTIFF # 68, JAVIER CLAVELO**

1299. In January 2007, Plaintiff, Javier Clavelo, executed two mortgages and notes for his home located at 5107 Town 'N Country Blvd, Tampa, Hillsborough County, Florida totaling \$200,000.00. The original lender was First Franklin Financial Corp.

1300. Subsequently, BOA began servicing the mortgages and the loans were assigned

number 23750495.

1301. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2010 requesting a HAMP modification.

1302. In March 2013, BOA loan representative Ricardo advised Plaintiffs by phone to refrain from making their regular mortgage payments. Ricardo specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Ricardo was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1303. Subsequently, BOA provided Mr. Clavelo a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1304. Plaintiff was routinely assigned a new account representative unfamiliar with the previous representative's work and was forced to resubmit the application. Many times, BOA employees falsely informed Mr. Clavelo the Bank had no information regarding their HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1305. Relying on the misrepresentations by BOA employees, Plaintiff sent his HAMP application and financial documents via U.S. Mail and Federal Express over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be

eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1306. Plaintiff was told over the phone by BOA representative Ricardo he was approved and requested he make “trial payments” of \$1,018.72 pursuant to the Federal Government’s Home Affordable Modification Program. This statement was false as the application wasn’t approved. This statement was intended to cause Plaintiff to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to his account, thereby generating fraudulent profits for BOA. BOA further profited by using Plaintiffs’ HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1307. Relying on BOA’s misrepresentations, Plaintiff made three (3) payments of \$1,018.72 in 2013, hoping to save his home.

1308. Despite making his trial payments, Plaintiff never received final written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Plaintiff concerning his HAMP application.

1309. It was and is BOA’s practice to place “trial period payments....into an **unapplied account** until” BOA made a decision on the borrowers’ HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1310. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs’ trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1311. On March 26, 2014, Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$277,246.37 was entered against Plaintiff, \$77,246.37 more than his original mortgage obligation.

1312. Despite the fact that Plaintiff lived in his home until 2013, BOA charged his account for a "Property Inspection" on twelve (12) occasions from 2010 to 2013, all while Plaintiff was living in his home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiff's trial payments and profited.

1313. BOA committed common law fraud upon Plaintiff in that it made false statements of fact it knew were false for the purpose of inducing Plaintiff to rely on those statements. By making these misrepresentations, profited by keeping Plaintiff's trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiff's into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiff's modification application. Plaintiff relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1314. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Javier Clavelo to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiff relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1315. Plaintiff suffered damages including but not limited to his time spent, the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing

it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFFS # 69, NANCY VALENCIA AND NELSON OCAMPO**

1316. In August 2007, Plaintiffs, Nancy Valencia and Nelson Ocampo, executed a mortgage and note for their home located at 3223 Trinity Cottage Drive, Land O'Lakes, Pasco County, Florida in the amount of \$200,300.00. The lender was Universal American Mortgage Company, LLC.

1317. Subsequently, BOA began servicing the mortgage and the loan was assigned number 173293880.

1318. After experiencing financial hardship, due in part to the state of the economy, Plaintiffs contacted BOA by phone in 2009 requesting a HAMP modification.

1319. In January 2010, BOA representative, Ms. Brown, advised Plaintiffs by phone to refrain from making their regular. Ms. Brown specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiffs up for foreclosure. BOA representative Ms. Brown was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1320. Subsequently, BOA provided Plaintiffs a HAMP application and they properly completed the application and returned it to BOA with supporting financial documents.

1321. When Plaintiffs returned the application along with supporting financial

documents, they were falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. Plaintiffs sent their HAMP application and supporting financial documents to BOA via certified mail more than three (3) times.

1322. Plaintiffs were routinely assigned a new account representative unfamiliar with the previous representative's work and were forced to resubmit the application. Many times, BOA employees falsely informed Plaintiffs they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1323. Relying on the misrepresentations by BOA employees, Plaintiffs mailed their HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1324. Plaintiffs did not receive any written verification the application was received, but BOA representative Ms. Brown verbally informed Plaintiffs they were approved and requested they make "trial payments" of \$728.81 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Plaintiffs to make payments to BOA, not for the purpose of compliance with HAMP or processing their HAMP application, but to cause Plaintiffs to send

funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1325. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1326. Relying on BOA's misrepresentations, Plaintiffs made seven (7) payments of \$728.81 in 2010, hoping to save their home.

1327. Despite making their trial payments, Plaintiffs never received written confirmation of the approval of their application for a HAMP modification. Subsequently, despite their efforts, BOA refused to respond to Plaintiffs concerning their HAMP application.

1328. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)(6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1329. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1330. On August 1, 2016, Plaintiffs' home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$282,827.61 was entered against Plaintiffs, \$82,527.61 more than their original mortgage obligation.

1331. Despite the fact that Plaintiffs lived in their home until 2015, BOA charged their account for a "Property Inspection" on eleven (11) occasions from 2011 to 2012, all the while Plaintiffs were living in their home. These inspection fees are impermissible under the *HUD*



*Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiffs' trial payments and profited.

1332. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. By making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1333. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Nancy Valencia and Nelson Ocampo to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1334. Plaintiffs suffered damages including but not limited to their time spent, the costs for sending their HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied their trial payments and profited.

**FACTUAL ALLEGATIONS**  
**PLAINTIFF # 70, YURISAN NAVARRO**

1335. In May 2006, Plaintiff, Yurisan Navarro, executed a mortgage and note for his home located at 2814 W. Woodlawn Ave, Tampa, Hillsborough County, Florida in the amount of \$202,500.00. The original lender was First Magnus Financial Corporation.

1336. Subsequently, BOA began servicing the mortgage and the loan was assigned number 8313312315.

1337. After experiencing financial hardship, due in part to the state of the economy, Plaintiff contacted BOA by phone in 2009 requesting a HAMP modification.

1338. In January 2010, BOA loan representative, Carlos, advised Plaintiff by phone to refrain from making his regular mortgage payments. Carlos specifically told Plaintiffs being past due and in default on their mortgage loan was a prerequisite for a HAMP modification. This statement was false and specifically designed by BOA to set Plaintiff up for foreclosure. BOA representative Carlos was specifically instructed to make this false statement to Plaintiffs and other mortgagors by BOA managers and this practice was condoned by BOA's officers and directors.

1339. Subsequently, BOA provided Plaintiff a HAMP application and he properly completed the application and returned it to BOA with supporting financial documents.

1340. When Plaintiff returned the application along with supporting financial documents, he was falsely informed by BOA employees the documents were not received, were incomplete or were not current, forcing Plaintiff to resubmit the information again and again. Plaintiff sent his HAMP application and supporting financial documents to BOA via mail and fax more than three (3) times.

1341. Plaintiff was routinely assigned a new account representative unfamiliar with the

previous representative's work and was forced to resubmit the application. Many times BOA employees falsely informed Plaintiff they had no information regarding the HAMP application. These misrepresentations were made to Plaintiffs by BOA representatives for the specific purpose of frustrating the HAMP application process and to ensure a modification was ultimately declined resulting in foreclosure. BOA employees were awarded cash incentives as well as restaurant and retail gift cards for meeting quotas for declining modification applications in a given day or week.

1342. Relying on the misrepresentations by BOA employees, Plaintiff mailed his HAMP application and financial documents over and over, and as a result, incurred expenses. Further, relying on misrepresentation that default was required to be eligible for a mortgage modification, Plaintiffs refrained from making their regular mortgage payment and made trial payments, resulting in placing Plaintiffs in a position of foreclosure.

1343. Plaintiff did not receive any written verification the application was received, but BOA representative Carlos verbally informed Plaintiff that he was approved and requested he make "trial payments" of \$2,190.24 pursuant to the Federal Government's Home Affordable Modification Program. This statement was false as the application wasn't approved. This statement was intended to cause Plaintiff to make payments to BOA, not for the purpose of compliance with HAMP or processing his HAMP application, but to cause Plaintiff to send funds so BOA could apply the funds to fraudulent fees it charged to their account, thereby generating fraudulent profits for BOA.

1344. BOA further profited by using Plaintiffs' HAMP application to make false claims for incentive payments to the United State Department of Treasury in the amount of \$1,000 or \$2,000.

1345. Relying on BOA's misrepresentations, Plaintiff made three (3) payments of \$2,190.24 in 2010, hoping to save his home.

1346. Despite making his trial payments, Plaintiff never received final written confirmation of the approval of his application for a HAMP modification. Subsequently, despite his efforts, BOA refused to respond to Plaintiff concerning his HAMP application.

1347. It was and is BOA's practice to place "trial period payments....into an **unapplied account** until" BOA made a decision on the borrowers' HAMP application. See July 20, 2016 Deposition of BOA Representative, Lonnie S. Mills, pursuant to Rule 1.310(b)6), *Noelia Ramirez v. Bank of America, N.A.*, Hillsborough County File No.: 16-CA-722.

1348. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1349. On June 19, 2012 Plaintiff's home was foreclosed. As a result of the foreclosure, a judgment in the amount of \$250,653.81 was entered against Plaintiff, \$48,153.81 more than his original mortgage obligation.

1350. Despite the fact that Plaintiff lived in his home, until 2012, BOA charged his account for a "Property Inspection" on twenty (20) occasions from 2009 to 2012. BOA even charged Plaintiffs for two (2) property inspections in the same month in June, 2009, all while Plaintiff was living in his home. These inspection fees are impermissible under the *HUD Servicing Guidelines* and are but one example of the fraudulent charges for which BOA applied Plaintiff's trial payments and profited.

1351. BOA committed common law fraud upon Plaintiff in that it made false statements of fact it knew were false for the purpose of inducing Plaintiff to rely on those statements. By

making these misrepresentations, profited by keeping Plaintiffs trial payments for profit and/or applying those funds to fraudulent inspection fees. BOA further profited by forcing Plaintiffs into foreclosure and avoiding the administrative costs of a good faith processing of Plaintiffs' modification application. Plaintiff relied on BOA's false statements and acted on those false statements and as a result suffered actual damages as described in this Complaint.

1352. BOA violated Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA") in that it developed and implemented a deceptive scheme designed to avoid modifying mortgages under HAMP and to use unsuspecting borrowers like Yurisan Navarro to cover and conceal the mortgage servicer's fraud on the Federal Government under the HAMP Agreement it agreed to in 2009. Plaintiff relied on BOA's false statements and acted on those false statements and as a result suffered actual damages.

1353. Plaintiff suffered damages including but not limited to his time spent, the costs for sending his HAMP application on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application, the loss of his home and the equity in that home, and the loss of future equity in the home, as well as damage to his credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied his trial payments and profited.

**COUNT I**  
**(Common Law Fraud)**

1354. The allegations in paragraphs 1 through 1353 of Plaintiffs' Complaint are incorporated herein by reference as if fully set forth herein.

1355. BOA made false statements of fact to Plaintiffs through the fraudulent scheme described in this Complaint.

1356. The statements made by BOA to Plaintiffs that required default or delinquency on his/her mortgage in order to be eligible for HAMP was false. Neither default nor delinquency was required under HAMP for eligibility, and BOA was aware of this fact.

1357. The statements that Plaintiffs were required to pay trial payments before being eligible for a HAMP modification was false as BOA had no intention of ever approving Plaintiffs' application.

1358. After Plaintiffs returned fully completed HAMP applications along with supporting financial documents, Plaintiffs were falsely informed by BOA employees that their documents were not received, were incomplete or were not current, forcing Plaintiffs to resubmit the information again and again. BOA made these statements to delay and ultimately require Plaintiffs to submit completely new applications to their detriment and BOA's gain in profits.

1359. BOA made these statements for the purpose of inducing Plaintiffs to rely on them.

1360. Plaintiffs believed BOA employees' statements, relied on BOA's statements and acted accordingly in refraining from making his/her regular mortgage payments and making trial payments as well as submitting new applications and financial documents over and over again when in fact, BOA employees knew that borrowers need not refrain from making regular mortgage payments and that there was nothing missing from their applications or financial documents.

1361. Upon information and belief, and upon sworn testimony of the Defendant, BOA kept the Plaintiffs' trial payments in an unapplied account and never applied the amounts to their account or gave them credit for the payments, but simply kept the funds for profit.

1362. Upon information and belief, BOA further profited by requiring Plaintiffs to resubmit HAMP loan modification applications over and over against, using these additional and

unnecessary HAMP applications to make false claims for incentive payments to the United States Department of Treasury in the amount of \$1,000 or \$2,000.

1363. BOA committed common law fraud upon Plaintiffs in that it made false statements of fact it knew were false for the purpose of inducing Plaintiffs to rely on those statements. Plaintiffs relied on BOA's false statements and acted on those false statements and as a result suffered damages as described in this Complaint.

1364. As a direct and proximate cause of the knowing misrepresentations by BOA described in the Complaint, Plaintiffs suffered damages including but not limited to the costs for sending their HAMP applications and financial documents on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application and financial documents, the loss of their home and the equity in that home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied his trial payments and profited. The inspection fees assessed to Plaintiffs were unnecessary, fraudulent and contravene public policy as well as HUD regulations.

1365. For example, absent a specific finding of need by a local HUD office, the shortest period between inspections authorized by the HUD servicing guidelines is 25 days:

Generally, reimbursement will be limited to one inspection for each 30-day cycle. This inspection should not be earlier than 25 days from the last inspection or later than 35 days after the last inspection. A distinction must be made between those items which are required and those which are merely recommended. Only where a local HUD Office has identified a need to inspect more frequently, and has made this a requirement, will a mortgagee be reimbursed for these additional inspections. *HUD Servicing Guidelines, Chapter 9, § 4330.1, 9-9 Inspection, Preservation and Protection Requirements, A. Inspections (c)(2)(a).*

1366. Further, multiple inspections are only allowed when the mortgaged property is vacant:

Where the mortgage is in default and the mortgagee has established that the mortgaged property is vacant, mortgagees shall inspect the mortgaged property every 25 to 35 days. *HUD Servicing Guidelines, Chapter 9, § 4330.1, 9-9 Inspection, Preservation and Protection Requirements, A. Inspections (c).*

1367. However, even before a series of inspections may begin, under HUD servicing guidelines, the mortgage must be in default, and the mortgagee is required to determine the Plaintiff's home was vacant/abandoned by making a phone call and performing a visual inspection to ensure the property had become vacant/abandoned:

When the mortgage is in default and a payment is not received within 45 days of the due date and efforts to reach the mortgagor or occupant at least by telephone have been unsuccessful, the mortgagee must perform a visual inspection of the mortgaged property to determine if it has become vacant or abandoned. *HUD Servicing Guidelines, Chapter 9, § 4330.1, 9-9 Inspection, Preservation and Protection Requirements, A. Inspections (a)(1).*

1368. BOA conducted inspection after inspection, all while Plaintiffs were living in their home. Although there is no private cause of action under the Guidelines for the Plaintiffs, these fees are but one example of the overall fraudulent mortgage servicing scheme BOA has operated for years and for which Plaintiffs have been victimized.

## **COUNT II**

### **(Florida Deceptive and Unfair Trade Practices Act)**

1369. The allegations in paragraphs 1 through 1353 of Plaintiffs' Complaint are incorporated herein by reference as if fully set forth herein.

1370. Under Florida law, BOA's methodical scheme to avoid its responsibilities under the HAMP Agreement, instructing and paying its employees incentives to make knowing material misrepresentations to borrowers to achieve this goal, all in an effort to increase the



BOA's profits is the type of unfair and unscrupulous behavior which the Florida Deceptive and Unfair Trade Practices Act seeks to prevent. FDUTPA, *Fla. Stat.* § 501.201, *et seq.*

1371. Accordingly, the "Safe Harbor" provision of FDUTPA, section 501.212, does not apply when BOA's actions, as alleged herein, go beyond any violation of agency directives that implement HAMP, but rather encompasses a knowing and willful fraudulent scheme that is likely to mislead the consumer acting reasonably under the circumstances.

1372. In addition to loan servicing, BOA also regularly solicits loan modifications of home mortgage loans from borrowers through mailings and customer service calls in Florida.

1373. BOA's business practices are conduct in trade or commerce as defined by FDUTPA, *Fla. Stat.* § 501.201, *et seq.*

1374. All Plaintiffs are a "consumer" as that term is defined in Fla. Stat. § 501.203(7), Florida.

1375. BOA was required to follow the directives under "Servicer Participation Agreement" which it agreed to and executed with the Federal Government requiring it to "use reasonable efforts to remove all prohibitions or impediments to its authority, and use reasonable efforts to obtain all third-party consents and waivers that are required, by contract or in law, in order to effectuate any modification of a mortgage loan under the Program." See section 2A,

**Exhibit 1.**

1376. BOA did just the opposite and instituted a scheme to avoid its responsibilities under the HAMP Agreement and paid its employees incentives to make known material misrepresentations to borrowers to achieve this goal, all in an effort to increase the BOA's profits.

1377. In refusing to follow the directives under the HAMP Agreement, BOA has engaged in unconscionable acts or practices and has engaged in unfair or deceptive acts in the conduct of its trade and/or commerce in the State of Florida. BOA's actions resulted in material misrepresentations and omissions to the Plaintiff.

1378. The acts and conduct on the part of BOA constitute unfair and deceptive trade practices in that:

- a. BOA's methodical scheme of dishonest representations to Plaintiffs concerning the receipt or non-receipt of their HAMP loan modification application and financial documents was a deceptive act within the meaning of FDUTPA as the misrepresentations were deliberate acts to mislead and did in fact mislead Plaintiffs;
- b. BOA's methodical scheme of dishonest representations to Plaintiffs concerning the receipt or non-receipt of their HAMP loan modification applications and financial documents was "unfair" within the meaning of FDUTPA as the misrepresentations were unethical and unscrupulous;
- c. BOA's methodical scheme of dishonest representations to Plaintiffs concerning the receipt or non-receipt of their HAMP loan applications and financial documents, the purpose of which was to deceive the Federal Government in order to increase BOA's profits was "unfair" and "deceptive" and in violation of FDUTPA in that the practice is likely to mislead consumers acting under reasonable circumstances to the consumer's detriment;
- d. The acts of BOA complained of herein violate public policy, amount to an inequitable assertion of its power and position, are immoral, unethical, oppressive, unscrupulous, and/or substantially injurious to Plaintiffs and other Florida consumers;
- e. The acts of BOA complained of herein are unconscionable; and
- f. The actions of BOA complained of herein were committed willfully.

1379. The policies, acts, and practices by BOA alleged herein were intended to result and did result in the knowing misrepresentations described in the Complaint. Plaintiffs suffered damages including but not limited to the costs for sending their HAMP applications and financial documents on multiple occasions when BOA had no intention of reviewing it, the loss of time spent sending and re-sending the HAMP application and financial documents on multiple

occasions when BOA had no intention of reviewing it, the loss of their home and the equity in their home, and the loss of future equity in the home, as well as damage to their credit and the loss of some or all of the funds paid to BOA for trial payments for which BOA applied to fraudulent fees, late fees and other wrongful fees for which BOA applied their trial payments and profited. The inspection fees assessed to Plaintiffs were unnecessary, fraudulent and contravene public policy as well as HUD regulations.

1380. Each Plaintiff has suffered actual damages as a direct and proximate result of BOA's unfair and unconscionable practices. *Fla. Stat.* § 501.211(2), provides each Plaintiff a private right of action against BOA and entitles him to recover his/her actual damages, plus attorneys' fees and costs.

**WHEREFORE**, Plaintiffs pray:

1. The Court enter a judgment for each Plaintiff and against BOA for Common Law Fraud;
2. The Court enter judgment for each Plaintiff and against BOA for deceptive and unfair trade practices, in an amount to be determined by the Court at a trial in this matter, treble such damages, and award interest as allowed by applicable law, and further award the Plaintiffs attorney fees pursuant to FDUTPA, *Fla. Stat.* § 501.201, *et seq.*;
3. The Court tax costs of this action to BOA;
4. For such other and further relief as the Court may deem just and proper; and
5. The Court conduct a trial by jury on all issues.

Dated: June 27, 2017

/s/ John W. Adams, Jr.

**JOHN W. ADAMS, JR., ESQUIRE**

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