

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>JOSEPHINE C. MAHER,</b>	)	
	)	
Plaintiff,	)	NO.
v.	)	
	)	
<b>WELLS FARGO BANK, N.A.</b>	)	
	)	
Defendants	)	

**COMPLAINT**

COMES NOW Plaintiff, by and through her attorneys, and state and allege against the above-named Defendant as follows:

**INTRODUCTION**

1. Plaintiff was the lawful resident and owner of 1862 Wisteria Drive, Aurora, Illinois 60503 (the "Premises") on or about November 14, 2011.
2. On November 14, 2011, agents of Defendants Wells Fargo Bank N.A. ("Defendant") locked out Plaintiff from her residence.
3. Defendant's agents came back a second time on November 18, 2011 and removed Plaintiff's personal property from the premises and attempted to do so a third time on November 23, 2011.
4. Defendant's conduct was not authorized by any judicial process, any prior notice to Plaintiff, or under authority of any mortgage deed on the Premises.
5. Plaintiff brings claims for 1) trespass; 2) conversion; 3) negligence; 4) invasion of privacy; and 5) willful and wanton conduct.

**PARTIES**

6. Plaintiff, Josephine Maher (“Josephine”) is a single person who presently resides at 153 N. Center Street, Naperville, Illinois 60540, and is a citizen of the State of Illinois and at all times material herein, was the lawful owner and resident of the premises located at 1862 Wisteria Drive, Aurora, IL 60503.
7. Defendant, Wells Fargo Bank (hereinafter “WELLS”) is in the business of investment and investment management as well as other financial services.

**JURISDICTION AND VENUE**

8. Under 28 USC § 1332 this Court has jurisdiction of this cause since there is a diversity of citizenship between Josephine who is a citizen of the State of Illinois and Defendant WELLS lists its headquarters as 420 Montgomery Street, San Francisco, California 94104 and is a citizen of the State of California. The amount in controversy exceeds \$75,000.
9. Venue is proper in this court since more of the acts complained of took place within this District than took place anywhere else.

**FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

10. As stated, at all times material herein, Plaintiff resided at 1862 Wisteria Drive, Aurora, Illinois 60503.
11. On July 19, 2011, WELLS began foreclosure proceedings against Josephine under case number 2011-803 in the Circuit Court of Kendall County. As of December 2011 no foreclosure judgment has been entered for WELLS against Josephine.
12. On November 14, 2011 and November 18, 2011, WELLS, acting through its agents, entered onto and into the Premises to unlawfully change the locks and remove many of Josephine’s personal possessions. There was no prior notice of the entry, nor did WELLS obtain any

judicial process to enter onto the Premises. On learning her house had been locked and her possessions removed, Josephine contacted the police and a police report was filed because \$325 and jewelry were missing.

13. On November 23, 2011, WELLS again returned to the PREMISES when no judgment of foreclosure or Order for possession had been entered.
14. Josephine re-alleges the previous paragraphs as if fully set forth in this Count.
15. Defendant, its agents, contractors and/or employees entered onto the Plaintiff's Premises without permission or authorization during its foreclosure process and proceedings.
16. The actions of Defendant and its agents, contractors and/or employees were done intentionally, willfully, wantonly, maliciously, recklessly and/or with gross disregard for Josephine's rights.
17. At all times material herein, Defendant WELLS exercised control over the actions and conduct of its agents.
18. Josephine was suffered damages as a direct result of the actions of Defendant, its agents, contractors and/or employees.

WHEREFORE Plaintiff requests that she be awarded damages against Defendant in an amount to be proven at trial along with punitive damages, attorney's fees, costs, expenses and any other just relief to be determined by the Court.

**COUNT 2**  
Conversion

19. Plaintiff re-alleges the previous paragraphs as if fully set forth in this Count.
20. Defendant, its agents, contractors and/or employees entered onto and into Josephine's Premises without permission or authorization during its foreclosure process and proceedings.

21. At all times material herein, Josephine had personal property within the Premises and had an absolute and unconditional right to the immediate possession of such personal property.
22. Defendant, its agents, contractors, and/or employees wrongfully and without authorization from Josephine seized her property from the Premises and assumed dominion, ownership and control over her property. Defendant also unlawfully locked Josephine out of the Premises and prevented her from her right to possession of the home or the possessions therein. Despite Josephine's demands, her property was not returned.
23. At all times material herein, Defendant WELLS exercised control over its agents who were engaged in the aforesaid conduct.
24. The actions of Defendant and its agents, contractors and/or employees were done intentionally, willfully, wantonly, maliciously, recklessly and/or with gross disregard for the Josephine's rights.
25. Plaintiff was damaged as a direct result of the actions of Defendant, its agents, contractors, and/or employees.

WHEREFORE Plaintiff requests that she be awarded damages against Defendant in an amount to be proven at trial along with punitive damages, attorneys fees, costs, expenses and any other just relief to be determined by the Court

**COUNT 3**  
Negligence

26. Plaintiff re-alleges the preceding paragraphs as if fully set forth in this Count.
27. Defendant WELLS and its agents owed a duty to Josephine to act reasonably during the foreclosure process and proceedings. The duty owed to Plaintiff included the obligation to obtain lawful authority to enter the premises, to give notice to the Plaintiff prior to entering the premises, to reasonably determine whether the premises had been abandoned by the

Plaintiff, and to conduct its property preservation activities in a reasonable and prudent manner and without wrongfully and unlawfully depriving Plaintiff with the right to her possessions.

28. Defendant breached its duty to the Plaintiff by wrongfully entering onto the Premises without prior notice to Plaintiff and without lawful judicial process, and by unlawfully dispossessing the Plaintiff of her personal property in violation of her rights. Defendant also failed to remedy this breach after the gross misconduct was brought to its attention.

29. At all times material herein, Defendant WELLS exercised control over the actions and conduct of its agents engaged in the aforesaid conduct.

30. The actions of WELLS and its agents, contractors and/or employees were done intentionally, willfully, wantonly, maliciously, recklessly and/or with gross disregard for Plaintiff's rights.

31. The conduct of Defendant directly caused Plaintiff to be damaged.

WHEREFORE the Plaintiff requests that she be awarded damages against Defendant in an amount to be proven at trial along with punitive damages, attorneys fees, costs, expenses and any other just relief to be determined by the Court

**COUNT 4**  
Invasion of Privacy

32. Plaintiff re-alleges the preceding paragraphs as if fully set forth in this Count.

33. Defendant, its agents, contractors, and/or employees, seized the Plaintiff's property and possessions without permission or authorization during its foreclosure process and proceedings. Defendant, its agents, contractors and/or employees deprived Plaintiff access to her own home by locking her out and rekeying the doors. Defendant, its agents, contractors, and/or employees had no right or authority to break into Plaintiff's Premises, seize her property, and remove or dispose of her personal property and possessions.

34. The actions of Defendant and its agents, contractors and/or employees were done intentionally, willfully, wantonly, maliciously, recklessly and/or with gross disregard for the Plaintiff's rights.
35. At all times material herein, Defendant WELLS exercised control over the actions and conduct of its agents who engaged in this conduct.
36. The acts of Defendant, its agents, contractors, and/or employees were such that a reasonable person would find them to be a substantial and serious interference in Plaintiff's privacy.
37. At all times material herein, Plaintiff was the lawful occupant of the Premises. Plaintiff had a right to privacy in the Premises. Plaintiff had the right to be free from unlawful intrusion onto the Premises and into her home and a right to be free from the unauthorized seizure and destruction of her property. Although Plaintiff was not present in the Premises at the time of Defendant's conduct as aforesaid, Plaintiff had personal possessions and private papers containing personal information in the premises.

WHEREFORE Plaintiff requests that she be awarded damages against Defendant in an amount to be proven at trial along with punitive damages, attorney's fees, costs, expenses and any other just relief to be determined by the Court.

**Count 5 – Willful and Wanton Conduct**

38. Plaintiff re-alleges the previous paragraphs as if fully set forth in this Count.
39. Defendant WELLS and/or its agents, contractors and/or employees entered onto Plaintiff's Premises without permission or authorization during WELLS' foreclosure process and proceedings.
40. Defendant owed a duty to Plaintiff to act as a reasonable company during any mortgage servicing activities, foreclosure process and proceedings, and property preservation activities.

The duty owed to Plaintiff included the obligation to obtain lawful authority to enter the premises, to give notice to Plaintiff prior to entering the premises, to reasonably determine whether the Premises had been abandoned by Plaintiff, and to conduct its property preservation activities in a reasonable and prudent manner and without wrongfully and unlawfully depriving Plaintiff with the right to her possessions.

41. At all times material herein, Plaintiff had personal property within the Premises over which she had an absolute and unconditional right to the immediate possession of such personal property.
42. Defendant, its agents, contractors, and/or employees wrongfully and without authorization from Plaintiff seized Plaintiff's property from the Premises and assumed dominion, ownership and control over her property. Defendant also unlawfully locked Plaintiff out of the Premises and prevented Plaintiff from her right to possession of the home or the possessions therein. Despite Plaintiffs' demands, her property was not returned.
43. At all times material herein, Defendant WELLS exercised control over the actions and conduct of its agents engaged in the aforesaid conduct.
44. The actions of Defendant and its agents, contractors and/or employees were done intentionally, willfully, wantonly, maliciously, recklessly and/or with gross disregard for Plaintiff's rights.
45. Plaintiff was damaged as a direct result of the actions of the Defendant, its agents, contractors, and/or employees.

WHEREFORE Plaintiff requests that she be awarded punitive damages against Defendant WELLS in this Court in an amount to be proven at trial along with attorney's fees, costs, expenses and any other just relief to be determined by the Court.

**THE PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL COUNTS**

Respectfully submitted on behalf of the Plaintiff

\_\_\_\_\_/s/Arthur S. Gold\_\_\_\_\_

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Maher/Complaint .