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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange

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By Eleanor Sutter, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF ORANGE

11 KATHERINE A. SCHERI,

12 Plaintiff,

13 vs.

14 TRIMAVIN, LLC, a California Limited  
15 Liability Company; STEARNS LENDING,  
16 INC., a California corporation, and DOES 1  
17 through 30, inclusive

Defendants.

Case No.: 30-2013-00663449-CU-WT-CJC

**COMPLAINT FOR DAMAGES**

**DEMAND FOR JURY TRIAL**

I/C/J: Judge Derek W. Hunt  
Dept.:

18 Plaintiff, Katherine A. Scheri, alleges as follow:

19 1. Plaintiff Katherine A. Scheri is, and at all relevant times was, an individual  
20 residing in the County of San Diego, State of California.

21 2. Plaintiff is informed and believes, and on that basis alleges, defendant  
22 TRIMAVIN, LLC, ("TRIMAVIN") is, and at all relevant times was, a limited liability company  
23 organized and existing under the laws of the State of California, operating and conducting  
24 business within the City of Santa Ana, County of Orange, State of California, with its principal  
25 place of business located at 4 Hutton Centre Drive. Defendant TRIMAVIN is an appraisal  
26 management company.

27 3. Plaintiff is informed and believes, and on that basis alleges, defendant  
28 STEARNS LENDING, INC., ("STEARNS") is, and at all relevant times was, a corporation

1 organized and existing under the laws of the State of California, operating and conducting  
2 business within the City of Santa Ana, County of Orange, State of California, with its principal  
3 place of business located at 4 Hutton Centre Drive. Defendant STEARNS is in the real estate  
4 financing business providing, among other products, residential mortgages to consumers in  
5 California as well throughout the United States.

6 4. The true names and capacities of defendants named as DOES 1 through 30,  
7 inclusive, are presently unknown to Plaintiff. Plaintiff will amend this complaint setting forth  
8 the true names and capacities of these fictitiously named defendants when their identities are  
9 ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the  
10 fictitiously named defendants has participated in the acts alleged in this complaint that have  
11 been done by the named defendants.

12 5. Plaintiff is informed and believes, and on that basis alleges, that at all relevant  
13 times, each of the defendants, whether named or fictitious, was the agent or the employee of  
14 each of the other defendants, and in doing the things allege to have been done in the complaint,  
15 acted within the scope of such agency or employment, or ratified the acts of the others.

16 6. Plaintiff is informed and believes, and thereon alleges, that defendants  
17 TRIMAVIN and STEARNS, and each of them, are subject to such a degree of common  
18 ownership, control and management that, in doing the things hereinafter alleged, each was the  
19 agent of the other and is liable to the plaintiff under the law for the damages sustained by  
20 plaintiff.

21 7. Plaintiff is informed and believes, and thereon alleges, that defendants  
22 TRIMAVIN and STEARNS, and each of them, were thereafter her employers under California  
23 law, that all of the defendants herein did acts consistent with the existence of an employer-  
24 employee relationship with plaintiff and all of the defendants were owned and controlled,  
25 directly and/or indirectly, by defendant STEARNS.

#### 26 **JURISDICTION AND VENUE**

27 8. This Court has personal jurisdiction over the defendants because they are  
28 residents of, have contacts with, and are doing business in the City of Santa Ana, County of

1 Orange, State of California.

2 9. Venue is proper in this County and Judicial District in accordance with *Code of*  
3 *Civil Procedure* §§394 and 395(a) because defendants, or some of them, do business in this  
4 judicial district and plaintiff and others were employed by defendants in the City of Santa Ana,  
5 County of Orange, State of California and this Judicial District.

6 **FACTUAL ALLEGATIONS**

7 10. Plaintiff is an adult female who was employed by defendants in the City of Santa  
8 Ana, County of Orange, State of California, as their Chief Appraiser having been hired on or  
9 about October 24, 2011. Defendants involuntarily terminated plaintiff's employment on or  
10 about January 10, 2013.

11 11. During the hiring process, plaintiff was interviewed by Katherine Le, who was  
12 president of defendants, for the position of and was ultimately hired as Chief Appraiser for  
13 defendant TRIMAVIN, designated as a department of defendant STEARNS. On or about  
14 October 20, 2011, Melody McClain, who plaintiff is informed and believes, and on that basis  
15 alleges, was the human resources manager for defendants, prepared an electronic new employee  
16 notification information sheet regarding plaintiff identifying plaintiff as a new employee of  
17 defendant STEARNS who would be working in the branch office of defendant TRIMAVIN as  
18 Chief Appraiser. The hiring manager was identified as Katherine Le, President of defendants.

19 12. Defendant TRIMAVIN and defendant STEARNS are located at the same  
20 address, 4 Hutton Centre Drive, Santa Ana, California.

21 13. After plaintiff was terminated by defendants on or about January 14, 2013, she  
22 filed an unemployment claim with the California Employment Development Department.  
23 Defendants responded to plaintiff's unemployment insurance claim with Ruby Gibson of  
24 defendant STEARNS identified as the contact person for defendants in connection with  
25 plaintiff's unemployment insurance claim.

26 14. As defendants' Chief Appraiser, plaintiff oversaw the defendants' Appraisal  
27 Review Department which, when plaintiff was hired, included a seven member review team  
28 which consisted of two trainees, one part-time certified appraiser, one full-time certified

1 appraiser and three licensed appraisers. After assessing the Appraisal Department, plaintiff  
2 implemented a number of changes including revamping the review guidelines to incorporate the  
3 underwriting guidelines of the Uniform Standards of Professional Appraisal Practice, HUD,  
4 FNMA and FHMLC. Plaintiff implemented the use of an internal review process that would be  
5 completed on each appraisal review. Plaintiff also immediately discontinued defendants'  
6 practice of having employees in the appraisal department performing desk reviews of appraisal  
7 reports from states in which those employees were not licensed as appraisers. After terminating  
8 the practice of reviewers performing desk reviews of appraisals in states in which they were not  
9 licensed, plaintiff implemented a policy and practice that only certified/FHA reviewers were to  
10 review FHA/USDA appraisals. Plaintiff also developed a reconsideration of value policy, and  
11 recommended a vendor boarding process which included a due diligence review of credentials  
12 and work samples to determine whether an appraiser should be added to the approved appraiser  
13 panel which defendants refused to implement.

14 15. Subsequent to plaintiff's hire in or about October 2011, Eric Dellorusso was  
15 hired in late November 2011 as president of defendant TRIMAVIN. Up to this point in time,  
16 plaintiff was reporting directly to Katherine Le, president of defendants but after his hire,  
17 plaintiff starting reporting to Dellorusso.

18 16. Thereafter, it was brought to plaintiff's attention that defendant STEARNS  
19 developed a program to recruit mortgage brokers and loan officers by telling the prospective  
20 mortgage brokers and loan officers they could provide their own personal list of appraisers for  
21 inclusion in the approved appraisal panel used as part of the loan approval process as defendant  
22 STEARNS owned its own Appraisal Management Company (AMC) - defendant TRIMAVIN.  
23 Plaintiff was informed defendant STEARNS outlined a package to prospective brokers, loan  
24 officers and branch managers that promised them they could have their own personalized list of  
25 preferred appraisers for use on the loans these brokers, loan officers and branch managers  
26 submitted. Furthermore, defendant STEARNS informed the prospective brokers, loan officers  
27 and branch managers that since defendant STEARNS owned and oversaw defendant  
28 TRIMAVIN, its appraisal management company, the prospective brokers, loan officers and

1 branch managers would have more control over the appraisal process since defendant  
2 TRIMAVIN was a captive vendor.

3 17. As chief appraiser, plaintiff received emails and other communications from  
4 loan officers, branch managers and mortgage brokers complaining when an appraiser not on  
5 their list was used by defendants to conduct an appraisal in connection with one of their loans.  
6 Plaintiff responded to these branch managers, loan officers and brokers defendant that defendant  
7 could not accept a list of appraisers as it was a direct violation of the federal laws and Appraisal  
8 Independence Regulations per the Dodd-Frank Act requiring the valuation department and loan  
9 production department remain separate with the latter exerting no influence over the former  
10 department. The branch managers, loan officers and brokers would respond to plaintiff  
11 informing her defendants told them they could have their own appraisers used on their loans.  
12 Complaints would then be made by these loan officers, branch managers and brokers to  
13 Dellorusso, who directed plaintiff to stop telling defendants' branch managers, loan officers and  
14 brokers they could not request or use their own appraisers.

15 18. Plaintiff expressed her concerns directly to Dellorusso, defendant TRIMAVIN's  
16 president, that the practice of accepting appraiser names from defendant STEARNS' production  
17 personnel was a violation of Regulation Z, 12 C.F.R. 1026.42(d)(2)(iii) prohibiting any  
18 employee, officer or director in the loan production function to directly or indirectly select,  
19 retain, recommend or influence the selection of the person to prepare a valuation or perform a  
20 valuation management functions, or to be included in or excluded from a list of approved  
21 persons who prepare valuations or perform valuation management functions. Dellorusso, on  
22 behalf of defendants, after plaintiff voiced her concerns, stated the practice of accepting  
23 appraiser names from defendant STEARNS' production employees was not a violation of the  
24 regulations plaintiff cited because the appraiser names provided by the production personnel of  
25 defendant STEARNS were "blended" with the names of the appraisers already on the list.  
26 Furthermore, Dellorusso told plaintiff the names of appraisers from the production personnel of  
27 defendant STEARNS were only used on a rotation basis which plaintiff later learned was false  
28 as the appraisers on the panel were ranked numerically in such a fashion that appraisers whose

1 names were provided by the production personnel of defendant STEARNS were guaranteed to  
2 be used over the existing appraisers. Plaintiff informed Dellorusso defendants could not accept  
3 the names of appraisers from loan officers, brokers, branch managers, account executives,  
4 employees and other executives of defendant STEARNS as it violated federal law but  
5 Dellorusso told plaintiff they could and the practice would continue.

6 19. In about December 2011, defendants' upper corporate management held a  
7 meeting to address plaintiff's concerns about the practice of defendants' production personnel  
8 submitting the names of appraisers to be included on an already approved list of appraisers.  
9 Attending this meeting on behalf of defendants was Katherine Le, president of defendants  
10 STEARNS and TRIMAVIN, Sean Browning, executive vice president of production for  
11 defendant STEARNS, Pamela Gallardi, Senior Vice President, Operations, Yvonne Ketchum,  
12 Senior Vice President, Wholesale Production, Eric Dellorusso, president of defendant  
13 TRIMAVIN, Teri Burks, operations manager for defendant TRIMAVIN, David Erickson,  
14 production manager for defendant TRIMAVIN, and plaintiff. At this meeting, plaintiff  
15 produced copies to everyone in attendance with the FNMA Guidelines on Appraiser  
16 Independence and Regulation Z, 12 F.C.R. 1026.42(d)(2)(iii) in support of her position it was  
17 illegal for the loan production employees to exert influence over the valuation department  
18 employees with respect to adding and/or removing appraisers from the approved appraisal panel.

19 20. At this December 2011 meeting, defendants' upper management stated there was  
20 nothing wrong with defendants' loan production personnel providing names of appraisers with  
21 whom they were comfortable and having these names "blended" into the list of approved  
22 persons who prepared valuations/appraisals. Plaintiff responded to defendants' upper  
23 management at the meeting that this practice was a direct violation of the Appraiser  
24 Independence Regulations and Regulation Z with Sean Browning, executive vice president of  
25 production for defendant STEARNS, thereafter having plaintiff read the regulations aloud.  
26 Browning then told plaintiff his interpretation was such that he saw no reason why the names  
27 could not be added to the already approved list of persons who prepared valuations and  
28 Katherine Le and Eric Dellorusso both concurred. Plaintiff stated at this meeting that if

1 referrals, recommendations or however they wanted to categorize it were accepted by defendant  
2 TRIMAVIN from brokers, loan officers, branch managers and employees of defendant  
3 STEARNS, both defendants would be in direct violation of the appraiser independent  
4 regulations and Truth in Lending Act. At the conclusion of the meeting, Katherine Le stated she  
5 would let Dellorusso know what defendants' decision would be.

6         21. Subsequent to the December 2011 meeting, plaintiff persisted in following up  
7 with Dellorusso, president of defendant TRIMAVIN, about whether defendants were going to  
8 comply and follow the directive from defendant STEARNS by continuing to "blend" the names  
9 of appraisers recommended by defendants' production personnel into the existing list of  
10 approved appraisers. In response, Dellorusso copied plaintiff on an email he sent to David  
11 Erickson that included a list of approved appraisers for several geographic areas for William  
12 Lyon Homes. This list of approved appraisers was provided by Jason Forman, Vice President of  
13 a joint venture between defendant STEARNS and William Lyon Homes. Defendant STEARNS  
14 entered into a joint venture relationship with William Lyon Homes and was the exclusive lender  
15 for Lyon Homes for the homes it was building. After receiving the email, plaintiff checked the  
16 system at defendant TRIMAVIN and noted all of the appraisers on the list submitted by Jason  
17 Forman were added to the panel and were performing appraisals on assignments from William  
18 Lyon with only the appraisers from the list submitted by Forman assigned to the loans on  
19 William Lyon homes.

20         22. In or about May 2012, plaintiff was meeting with Dellorusso in his office when  
21 she observed a stack of documents printed in landscape format in an Microsoft Excel  
22 spreadsheet which contained a list of names, addresses, email addresses, phone numbers. When  
23 asked, Dellorusso told plaintiff it was a list of appraisers Brian Hale, formerly of Met Life Home  
24 Loans, who was recently hired as CEO for defendant STEARNS, provided Dellorusso and that  
25 this was the vendor list defendants were going to use. Immediately thereafter, Dellorusso told  
26 plaintiff he should not have told her where this list of appraisers came from, and directed her not  
27 to disclose to anyone that she had seen the list or where it came from as it could cost him his  
28 job. Plaintiff told Dellorusso they could not use the list and that they needed to advise the legal

1 department of defendants.

2 23. In or about February 2012, defendants were in the process of acquiring and  
3 implementing an appraiser management platform called Collateral Management System (CMS).  
4 CMS supposedly would provide defendants the ability to automate some of the appraisal  
5 assignments as well as review processes by providing analytical tools for reviewing the  
6 appraisals. The contract to acquire this platform was signed in or about late February 2012.  
7 Plaintiff was told CMS would score the appraisals on a set of appraisal rules called the  
8 Generally Accepted Appraisal Review (GAAR). The system could highlight potential  
9 deficiencies in the appraisal report and validate the data used. The system was used across the  
10 country and supposedly had a membership of approximately 70,000 appraisers. Plaintiff was  
11 advised defendants had purchased a list of appraisers whose quality scores were exceptional and  
12 the list comprised approximately 8,500 appraisers who were all vetted on their qualifications.

13 24. When the CMS system was being tested and set up, plaintiff was told by  
14 Dellorusso he was going to set the system up himself and did not need any assistance. This was  
15 surprising to plaintiff and other employees of defendants as a rollout of an appraisal platform  
16 was a massive undertaking requiring a team of people to set it up. Dellorusso refused to  
17 delegate any responsibility out to the managers. In setting up CMS, specifically the appraiser  
18 panel, Dellorusso hired approximately five to six temporary employees to key in the names of  
19 appraisers. This made no sense as defendants paid for a scored list of appraisers with completed  
20 due diligence from FNC, the entity from whom defendants purchased the appraisal management  
21 platform called CMS. The scored list of appraisers for whom due diligence was already  
22 completed an electronic list that only needed to be uploaded into CMS as it was being set up. In  
23 addition, defendants' current approved appraisal panel was on defendants' legacy system and  
24 could be uploaded electronically into the CMS system as well. Plaintiff is informed and  
25 believes, and based thereon, alleges, the temporary employees hired by Dellorusso, president of  
26 defendant TRIMAVIN, were keying into CMS the names of the appraisers from the list  
27 Dellorusso had been given by Brian Hale, recently hired CEO of defendant STEARNS. Since  
28 the list of appraisers Hale provided Dellorusso was a hard copy paper list and not in digital

1 format, it could not be uploaded and had to be manually entered into the system which the  
2 temporary employees were doing.

3       25. After CMS system was rolled out, plaintiff had administrator rights to access the  
4 system. When plaintiff reviewed the appraisal panel, she noted appraisers were ranked with the  
5 numeral 2. Under the system rules for automatic assignment, only appraisers ranked with a 2  
6 were eligible for assignment of an appraisal order. Appraisers who had no rank would not  
7 appear in the eligible appraiser list for an assignment. As plaintiff reviewed the CMS system  
8 and appraiser panel at the time, she observed that the system was set up only to utilize the  
9 appraisers on the list Brian Hale provided Dellorusso as it appeared the CMS list of appraisers,  
10 who defendants purchased and were already vetted, were never uploaded into the system. The  
11 times plaintiff reviewed the appraiser panel on the CMS system, it was evident Dellorusso never  
12 imported the list purchased by defendants from FNC, appraisers who had already been scored  
13 and undergone a due diligence review as to their qualifications. Plaintiff did observe a few  
14 appraisers in their system had come to defendants legitimately, but based on their "no rank" they  
15 would not be eligible for appraisal assignments.

16       26. After CMS was implemented, plaintiff continued to receive communications  
17 from loan officers, branch managers and brokers requesting, and sometimes demanding, that  
18 appraisers be added or removed from the list or that second appraisals be performed by "their"  
19 appraiser when they did not like the valuation opinion of the original appraiser. Plaintiff also  
20 continued to receive communications demanding appraisers be removed from the list by  
21 defendants' production personnel (loan officers, brokers and/or branch managers) when the  
22 appraised value of a property as set forth in the report jeopardized whether the loan would be  
23 approved. Plaintiff continued to refuse to add or remove appraisers when requested by  
24 defendants' production personnel (brokers, branch managers and loan officers) and would  
25 forward the requests to Dellorusso informing him these demands were in violation of  
26 Regulation Z/Truth in Lending Act.

27       27. In or about December 2012 Dellorusso informed plaintiff he felt the stress of her  
28 job was affecting her and he talked to her about transferring to another position. Plaintiff told

1 Dellorusso the stress she was under was due to defendants manipulating appraisals, the process  
2 and the panel, and he was allowing it to happen. Dellorusso responded that after much thought,  
3 he told plaintiff he had decided a man would be better equipped to handle plaintiff's job as a  
4 man could deal with defendants' production personnel better than a woman. As a result,  
5 Dellorusso told plaintiff he wanted her to think about another job she could do which included  
6 possibly starting up and overseeing a staff appraisal department for defendant. Plaintiff told  
7 Dellorusso she was not interested in starting a new department as Katherine Le, president of  
8 defendants, hired her to make sure the appraisals were compliant and in accordance with all  
9 applicable law, and the decisions he was making was undermining appraisal compliance with  
10 those laws including Regulation Z. Dellorusso began to scream at plaintiff that he was trying to  
11 save them from being fired by defendants. The next day, Dellorusso called plaintiff and said  
12 "let's get this over with." Dellorusso told plaintiff she had been insubordinate and that he was  
13 going to make the decisions as to the appraisal process including who would be added and  
14 removed from the appraiser panel. Plaintiff told Dellorusso she was not willing to risk her  
15 appraisal license, which defendants were using, and would not be involved in what Dellorusso  
16 was doing as she again told him, as she had done numerous times before, adding or removing  
17 appraisers at the request/demand of the loan production personnel of defendants violated  
18 Regulation Z of 12 C.F.R. 1026.42(d)(2)(iii). Plaintiff also told Dellorusso his actions of  
19 ordering second appraisals to appease production personnel of defendants, accepting the names  
20 of appraisers and creating private appraiser panels for each branch was illegal and plaintiff  
21 would never ever be a party to it. Thereafter, Dellorusso walked plaintiff out to her car and  
22 made her promise she would not resign as he needed her appraisal and compliance knowledge.

23       28.     Thereafter, plaintiff went to defendants' human resources department and  
24 reported to Melody McCain, defendants' human resources manager, the issues plaintiff was  
25 having with Dellorusso. Specifically, plaintiff told McCain about the appraiser lists, about the  
26 emails from production personnel, about the list of appraisers Dellorusso received from Brian  
27 Hale which were thereafter inputted into defendants' list of approved appraisers and that  
28 plaintiff wanted to speak with Katherine Le. McCain said she would arrange it. Thereafter,

1 plaintiff came across an advertisement during the first week of January 2013, for her position as  
2 defendants' Chief Appraiser. Plaintiff immediately forwarded the advertisement to McCain and  
3 told McCain she needed to meet with her. On or about January 7, 2013, plaintiff went to  
4 McCain's office and told her once again about everything that had been going on and the related  
5 issues. Plaintiff told McCain what defendants were doing was illegal and plaintiff wanted to  
6 speak to legal counsel as she felt the issues needed to be reported to the federal Consumer  
7 Financial Protection Board. McCain responded by telling plaintiff they would go down to  
8 Dellorusso's office to address the matter which they did.

9         29. In the presence of McCain and Dellorusso, plaintiff again repeated everything  
10 that had been going on for months concerning the demands from defendants' loan production  
11 personnel to add or remove appraisers from the list of approved appraisers, the inclusion of the  
12 appraisers from the list Brian Hale, CEO of defendant STEARNS, gave Dellorusso into the  
13 CMS system, the ordering of second appraisals by Dellorusso to appease defendants' loan  
14 production personnel when the initial appraised value did not come out as desired and all related  
15 issues. After initially denying it, Dellorusso admitted that what plaintiff reported was accurate  
16 but that plaintiff was misconstruing what Dellorusso meant. Dellorusso attempted to claim the  
17 names of appraisers he received from defendants' production personnel employees were only for  
18 those areas where defendants did not have enough appraisers which was not true. When  
19 Plaintiff responded that she had a copy of emails with a list showing a sufficient number of  
20 appraisers in and for Southern California, which was one of the areas Dellorusso claimed  
21 defendants did not have enough appraisers, he asked if he could speak with plaintiff alone.  
22 McCain stated that could occur but only if plaintiff agreed. When meeting alone, Dellorusso  
23 told plaintiff she was putting both their jobs in jeopardy and they could each end up without a  
24 job. Plaintiff told Dellorusso he had single handedly created this situation by allowing  
25 defendant STEARNS to control how defendant TRIMAVIN operated and what laws were  
26 followed and which were ignored. Plaintiff told Dellorusso she was no longer willing to keep  
27 quiet and she was going to do something about the violations of Regulation Z if it did not stop.  
28 Dellorusso then told plaintiff he would speak to Katherine Le and that things would change.

1 Dellorusso then called McCain and told her that plaintiff and he had "worked it out" and things  
2 were going to be okay.

3 30. Thereafter, plaintiff was called to a meeting in the office of Monica McCarthy,  
4 legal counsel for defendants, to "follow up." McCarthy told plaintiff she, McCarthy, had been  
5 apprised of plaintiff's concerns regarding the appraisers referred by the loan production  
6 personnel of defendant STEARNS. McCarthy claimed they had checked the issue out with  
7 outside legal counsel and the practice was "completely legal" so plaintiff need not worry about it  
8 anymore. Plaintiff told McCarthy that was impossible because it was not legal. McCarthy said  
9 it was not a regular practice and it was only done for the areas where there was an insufficient  
10 number of appraisers available. Plaintiff told McCarthy every licensed appraiser in the United  
11 States is on a national registry and they could recruit from ASC.gov for appraisers in those  
12 under-served areas and that there was no conceivable reason why loan production personnel  
13 employed by defendant STEARNS had to recommend appraisers to her department. McCarthy  
14 responded by telling plaintiff the practice was legal and was no longer up for discussion.  
15 McCarthy then advised plaintiff that defendant STEARNS had "lost confidence in her ability to  
16 manage" and they decided to make a change. McCarthy told plaintiff her employment was  
17 being terminated by defendants because of "plaintiff's own actions." Plaintiff told McCarthy  
18 she, plaintiff, was losing her job because she would not turn a blind eye to what defendants were  
19 doing in violation of Regulation Z.

20 31. On or about January 14, 2013, defendants thereafter terminated plaintiff's  
21 employment. At the time plaintiff's employment was terminated, plaintiff had over ten years of  
22 experience as a field appraiser, review appraiser and appraisal manager. She had previously,  
23 prior to her employment with defendants, worked as a chief appraiser/manager supervising and  
24 reviewing a staff of nine certified appraisers and two trainees. Plaintiff was a Certified  
25 Appraiser who was licensed as a real estate appraiser in the State of California at the time of her  
26 termination.

27 32. At the time plaintiff's employment with defendants terminated, her annual salary  
28 was \$92,500 and her position with defendants entitled her to other various benefits of

1 employment including, but not limited to, medical, dental, vision and life insurance and  
2 participation in a 401k plan sponsored by defendants as well as paid time off of 11 days during  
3 her first year of employment, 16 days during the second through fifth year of employment, 21  
4 days during her sixth through tenth year of employment and 26 days a year thereafter.

5 **FIRST CAUSE OF ACTION**

6 **Wrongful Termination in Violation of Public Policy -**

7 **12 C.F.R. 1026.42**

8 **(AGAINST ALL DEFENDANTS)**

9 33. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 32  
10 inclusive, as though set forth in full.

11 34. In response to the financial and housing crisis in the mid-2000s which led, in  
12 large part, to the Great Recession, various federal laws were enacted and amended to provide,  
13 among other things, several new protections arising out of the consumer mortgage crises, which  
14 fueled the Great Recession, and the conduct engaged in by the home mortgage/lending industry  
15 including the relationship between loan production and valuation/appraisal departments. The  
16 Board of Governors of the Federal Reserve System, exercising its rule making authority under  
17 the Home Ownership and Equity Protection Act in 2008, amended Regulation Z which became  
18 effective October 1, 2009, and included appraiser independence requirements designed to ensure  
19 the integrity of real estate appraisals by requiring no interaction or influence exacted on the  
20 valuation/appraisal departments by the loan producers/producing department in order to insure  
21 the integrity of the valuations generated. Subsequently, Congress thereafter enacted the Dodd-  
22 Frank Act which codified the appraiser independence requirements into the Truth in Lending  
23 Act (TILA).

24 35. One of the federal laws enacted/amended was 12 C.F.R. Part 1026. Under  
25 Subpart E, Special Rules for Certain Home Mortgage Transactions, 1026.42, valuation  
26 independence was addressed. Specifically, with respect to conflicts of interest, employees,  
27 officers and/or directors in a lender's loan production department or who were performing that  
28 function, were prohibited from directly or indirectly selecting, retaining, recommending or

1 influencing the selection of a person to prepare a valuation or perform valuation management  
2 functions, or to be included in or excluded from a list of approved persons who prepare  
3 valuations or perform valuations management functions. The purpose of these newly enacted  
4 and/or amended laws was to insure property valuations accurately reflected the fair market value  
5 of the property and were not inflated due to improper influence from the loan production  
6 department of the lenders. Congress enacted these laws in response to serious and substantial  
7 problems it determined existed as a result of inflated or unsupported property values caused by  
8 improper and unethical conduct on the part of the loan production exerting influence on  
9 valuation departments so home mortgage loans would be approved when the true valuations did  
10 not support approval. Congressional intent was to insure the integrity of approval process  
11 involving home mortgage loan applications to avoid the financial crises that arose in the mid-  
12 2000s that led to the Great Recession causing massive unemployment across all sectors of the  
13 US and global economy resulting in substantial economic hardships suffered by the general  
14 public.

15         36. Based on these laws and since 2008-09, employees of the loan production  
16 departments of a lenders issuing home mortgage loans are now strictly prohibited from, directly  
17 or indirectly, recommending appraisers be added or removed from a list of approved persons  
18 who prepare valuations or perform valuation management functions, or otherwise influence the  
19 selection, retaining, recommendation or influencing of the selection of such persons. The  
20 residential mortgage crises in the mid-2000s was the catalyst for the housing and financial crises  
21 and was a substantial factor in causing the Great Recession. Due to appraisal reports grossly  
22 inflating the value of the homes, loans were approved for borrowers/consumers that should have  
23 never been approved that resulted in a foreclosure crises affecting many parts of the United  
24 States. People lost their homes and were wiped out financially causing a devastating impact on  
25 the economy in the United States as well as globally. Congress, in response, enacted and  
26 amended many laws governing the mortgage industry after determining the relationship between  
27 the production and valuation departments of many lenders was the cause of the grossly inflated  
28 housing values as pressure was exerted to establish a value that would guarantee the loan's

1 approval. Often times these loans were then sold to Fannie Mae and Freddie Mac which were  
2 then left holding bad loans and incurring millions, if not billions, of dollars in losses to the  
3 detriment of the federal government and/or taxpaying public who were then forced to  
4 bailout/support Fannie Mae and Freddie Mac to avoid further damage inflicted on our national  
5 economy.

6 37. When plaintiff learned employees of defendants were violating Regulation Z of  
7 12 C.F.R. 1026.42(d)(2)(iii), she brought it to the attention of defendants upper management  
8 and specifically referenced the applicable statutory and regulations that prohibited such conduct.  
9 Plaintiff informed upper management of defendants including Katherine Le, President, Sean  
10 Browning, Executive Vice President of Production and Eric Dellorusso, her direct supervisor.  
11 After plaintiff communicated her concerns and how they violated the appraiser independence  
12 regulations and Regulation Z, she was told by defendants' upper management that defendants  
13 saw no reason why employees of defendants' loan production division could not continue to  
14 recommend appraisers be included and/or removed from the approved list of appraisers utilized  
15 by defendants.

16 38. Defendants continued the practice of permitting its employees in the loan  
17 production division to recommend appraisers be added or removed from the approved persons  
18 who prepared valuations or performed valuation management functions for and by defendants.  
19 Plaintiff continually raised and expressed her concerns to Dellorusso, her direct supervisor who  
20 ultimately, in December 2012, suggested plaintiff consider transferring to another position  
21 within defendant. After plaintiff refused, she went to defendants' human resources department  
22 and thereafter met with defendants' in-house legal counsel who explained defendants' conduct  
23 was not illegal or in violation of the law. In response, plaintiff reiterated to defendants' in-  
24 house legal counsel that the conduct engaged in by defendants' loan production department of  
25 directly and indirectly selecting, retaining, recommending or influencing the selection of  
26 appraisers to be included in or excluded from defendants' list of approved appraisers and  
27 demanding second appraisals be conducted when employees of defendants loan production  
28 division objected to the value of the original appraisal violated federal law. Defendants' in-

1 house legal counsel told plaintiff the issue was no longer up for discussion. Plaintiff informed  
2 defendants she would not keep quiet about the violations of the appraiser independence  
3 regulations and Regulation Z. Plaintiff had reason to believe and, in good faith, believed that  
4 the above-described conduct set forth herein engaged in by defendants was illegal, in violation  
5 of the appraiser independence regulations and Regulation Z among other laws, was harmful to  
6 the public and to the defendants.

7 39. It is the law and public policy and the State of California that no employer may  
8 terminate an employee because that employee reports suspicions of illegal conduct to her  
9 employer.

10 40. Defendants were motivated to terminate plaintiff's employment on grounds that  
11 violate the aforementioned California public policy by terminating plaintiff's employment  
12 because she engaged in legally protected conduct when she reported her reasonably based  
13 suspicions that defendants were violating, among other laws, the appraiser independence  
14 regulations and Regulation Z set forth in 12 C.F.R. 1026.42.

15 41. Plaintiff is informed and believes and, based thereon, alleges that her reporting to  
16 defendants of her reasonably based suspicions defendants' employees were engaging in illegal  
17 conduct in violation of federal law as alleged herein was a motivating factor in defendants'  
18 decision to terminate her employment of the law and public policy and the State of California  
19 that no employer may terminate an employee because that employee engages in legally protected  
20 activity.

21 42. By defendants' acts and omissions, plaintiff has been directly and legally caused  
22 to suffer actual damages, including, but not limited to, loss of earnings and future earning  
23 capacity and other pecuniary loss in an amount according to proof at time of trial.

24 43. As a further direct and legal result of defendants' acts and conduct, as aforesaid,  
25 plaintiff has been caused to and did suffer and continues to suffer emotional distress, anguish,  
26 humiliation, embarrassment, fright, discomfort and anxiety. Plaintiff does not know at this time  
27 the exact duration or permanence of these injuries, but is informed and believes, and thereon  
28 alleges, that some, if not all, of the injuries are reasonably certain to be permanent in nature.

44. Plaintiff has been generally damaged in an amount within the jurisdictional limits of this court.

45. Plaintiff is informed and believes and thereon alleges that defendants, by engaging in the aforementioned acts and/or authorizing and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive, fraudulent and despicable conduct and acted in wilful and conscious disregard of the rights, welfare and safety of plaintiff thereby justifying the award of punitive and exemplary damages in an amount according to proof at the time of trial.

## SECOND CAUSE OF ACTION

## Unlawful Retaliation -

**12 C.F.R. 1026.42(d)(2)(iii)**

(AGAINST ALL DEFENDANTS)(AGAINST ALL DEFENDANTS)

46. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 45, inclusive as if though fully set forth herein.

47. Between December 2011 and January 2013, plaintiff engaged in the protected activity including, but not limited to, objecting to defendants' failure to comply with the appraisal independence regulations and Regulation Z, and complained to defendants about unlawful retaliation when plaintiff's supervisor, Dellorusso, told her a man would be able to interact with the employees of defendant STEARNS more effectively than her and she would be better off transferring to another position within defendant.

48. It is the law and public policy in the State of California that no employer may retaliate against an employee because that employee reports suspicions of illegal conduct to her employer.

49. Defendants were motivated to retaliate against plaintiff's employment on grounds that violate California public policy as set forth herein and because of the protected conduct she engaged in as set forth above.

50. Defendants unlawfully retaliated against plaintiff by suggesting she transfer to another position in response to her reporting her reasonably based suspicions defendants were engaging in illegal conduct in violation of federal law and thereafter terminating plaintiff's

1 employment. Defendants engaged in this conduct because plaintiff opposed defendants'  
2 unlawful activities.

3 51. By defendants' aforesaid acts and omissions, plaintiff has been directly and  
4 legally caused to suffer actual damages including, but not limited to, loss of earnings and future  
5 earning capacity, and other pecuniary loss in an amount according to proof at the time of trial.

6 52. As a further direct and legal result of defendants' acts and conduct, plaintiff has  
7 been caused to and did suffer and continues to suffer severe emotional distress, anguish,  
8 humiliation, embarrassment, fright, discomfort and anxiety. Plaintiff does not know at this time  
9 the exact duration or permanence of said injuries, but is informed and believes and thereon  
10 alleges, that some if not all of the injuries are reasonably certain to be permanent in nature.

11 53. Plaintiff has been generally damaged in an amount within the jurisdictional limits  
12 of this court.

13 54. Plaintiff is informed and believes and thereon alleges defendants, by engaging in  
14 the aforementioned acts and/or authorizing and/or ratifying such acts, engaged in wilful,  
15 malicious, intentional, oppressive, fraudulent and despicable conduct, and acted in wilful and  
16 conscious disregard of the rights, welfare and safety of plaintiff thereby justifying the award of  
17 punitive and exemplary damages in an amount according to proof at the time of trial.

#### 18 PRAYER FOR RELIEF

19 **WHEREFORE**, plaintiff requests relief against defendants as follows:


- 20 1. For compensatory damages including lost wages, promotion opportunities,  
21 employment benefits, vacation benefits and other special and general damages  
22 according to proof but in excess of the jurisdictional thresh hold of this court;
- 23 2. For emotional distress damages;
- 24 3. For punitive and exemplary damages in an amount sufficient to punish and deter  
25 defendants' outrageous conduct;
- 26 4. For interest at the legal rate;
- 27 5. For costs of suit incurred herein;
- 28 6. For attorneys' fees; and

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7. For such other and further relief as the court deems just and proper.

Dated: July 19, 2013

WALTERS & CAIETTI, APC

By:   
Robert M. Caietti  
Attorneys for Plaintiff