

1 Marina Boyd, **PLAINTIFF IN PRO PER**
2 10951 NATIONAL BLVD., #302
3 LOS ANGELES, CA 90064
4 Telephone: (310) 663-4811

ORIGINAL FILED

MAY 20 2016

LOS ANGELES SUPERIOR COURT

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES—SANTA MONICA COURTHOUSE

10
11 MARINA BOYD

CASE NO.: SC117126

Assigned to Hon. Judge Lisa Hart Cole, Dept. O

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13 Plaintiffs,

**PLAINTIFFS' MARINA J BOYD'S
DECLARATION IN OPPOSITION TO
DEFENDANT CITIMORTGAGE'S
MOTION FOR SUMMARY JUDGMENT
OR IN THE ALTERNATIVE SUMMARY
ADJUDICATION & EXHIBITS 1-7**

14 v.

Action Filed: May 18, 2012

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16 CITIMORTGAGE, INC.

Date: March 25, 2016
Time: 8:30 a.m.
Department: O
Judge: Hon. Lisa Hart Cole

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22 **DECLARATION OF MARINA J BOYD**

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24 I, Marina J Boyd am a Plaintiff in this action. The following is of my own personal
25 knowledge and if called upon to testify thereto, I could and would competently do so.
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1 In October 2000, I purchased a Condominium located at 12321 Ocean Park Boulevard, Unit
2 1, Los Angeles, California 90064. I lived in the Condominium with my daughter, Alexis Boyd-
3 Holling and for several years, my sister Anita Faye Boyd.

4 On, or about September 22, 2011, I was evicted from the Condominium located at 12321 Ocean
5 Park Boulevard, Unit 1, Los Angeles, California 90064 by lockout where Mark Alston and one or
6 more Los Angeles County Sherriff deputies were present.

7 I advised the Sheriff's deputy that I believe the lockout to be subject to an automatic stay
8 because my request to re-open my bankruptcy was pending hearing and I presented the deputy with
9 my conformed copy of the motion dated September 20, 2011 and Notice of Automatic Stay dated
10 September 21, 2011 (See Plaintiffs Request for Judicial Notice Exhibit 8 and 9).

11 The Sherriff's deputy proceeded to place a call to the US District Court to verify the Bankruptcy
12 petition, and the clerk which he appeared to speak was not able to verify the petition. Mr. Alston
13 was present during this exchange.

14 Based on the deputies inability to verify the validity of my federal court motion, he advised me
15 that the lockout must proceed, so I gathered a few belongings and left according to the deputies
16 direction and, with my daughter who was also present at the time, peacefully vacated the premises.

17 I was later able to verify that my Bankruptcy court motion, was recorded as duly filed, but
18 learned that a lag in updating the court PACER system prevented the court from having the
19 information available to verify the documents when the deputy called.

20 On October 2, 2011, I, with movers returned to the aforementioned Condo to collect large
21 items which needed to be moved by truck, I also removed some additional boxes to the capacity
22 that the moving truck could except.

23 On October, Anita Faye Boyd send an e-mail to Mark Alston at
24 malston@alstonmortgage.com (see email, attached to 4th Amended Complaint as Exhibit VII). I
25 personally was present during her writing of and sending the e-mail identifying herself as an
26 occupant of the Condo and asking to pick up her belongings which she estimated would take about
27 six hours.

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1 On October 8, 2011, I called Skyway Realty at 310-665-8964 I spoke either to a receptionist
2 or left a voice mail message requesting that I be provide access to claim my remaining personal
3 belongings (Please see attached Exhibit 1).

4 On October 12, 2011, I called Skyway Realty at 310-665-8964 I spoke either to a
5 receptionist or left a voice mail message requesting that I be provide access to claim my remaining
6 personal belongings (Please see attached Exhibit 1).

7 On or about October 19, 2011, I slipped a hand written note under the door of the
8 Condominium advising Mark Alston that I wanted to claim my personal belongings.

9 On October 21, 2011, I called Skyway Realty at 310-665-8964 I spoke either to a
10 receptionist or left a voice mail message requesting that I be provide access to claim my remaining
11 personal belongings. (Please see attached Exhibit 1).

12 There was an outgoing message on the Skyway Realty voicemail and this outgoing message
13 did not advise callers to call any other number at the times that I called and I was able to leave a
14 message. Based on my personal experience, the system appeared to be functioning properly and
15 recording a message normally. There was no indication that the system was not working as any of
16 the other countless voice mail systems upon which I left messages.

17 On at least one of the aforementioned calls, I spoke to a woman who identified herself as a
18 receptionist. I identified myself and advised her that I wanted to arranged to collect my remaining
19 personal belonging from the Condominium. The receptionist advised me she would give my
20 message to Mark Alston, who I would need to speak to.

21 There was nothing about my conversation with the receptionist that lead me to believe that
22 she would not give my message to Mark Alston as she advise me, and the receptionist did not direct
23 me to call Mark Alston at any other number.

24 Prior to October 23, 2011, I drove by and waited parked outside the Condo frequently in
25 an effort to run into Mark Alston during a routing or other check.

26 On or about October 25, 2011 I drove to the Condominium and was able to observe from
27 the street inside the Condominium where I could see that it had been emptied of all of my personal
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1 belongings. I immediately called Skyway Realty and spoke to a person who again identified herself
2 as the receptionist. I explained to her that I could see that my Personal Property had been moved,
3 and I inquired where it had been moved or stored. The receptionist advised me that she believed
4 that the property had been discarded, but that I would need to speak to Mr. Alston who was not in
5 the office and that she would give him the message that I called. Again, I was not given another
6 number with which to reach Mr. Alston.

7 On October 28, 2011, I called Skyway Realty and this time I was able to speak to Mr.
8 Alston, however he advised me that the property had been “trashed out”. I enquired as to the
9 meaning of “trashed out” and he advised me that it had been disposed of. I asked for contact
10 information for the parties who had performed the “trash out” and Mr. Alston refused to provide
11 that information, instead, stating that I needed to contact the Les Zieve and Associates, the eviction
12 attorney who had handled the unlawful detainer. I attempted to further inquire of Mr. Alston the
13 location of my Personal Property and he cut me short and advised me it was “trashed out” and I
14 needed to call the eviction attorney.

15 I contacted the eviction attorney shortly after following my conversation with Mr. Alston
16 and after a couple of efforts I was able to speak with an attorney at Les Zieve and Associates who
17 advised me that their involvement in a the matter ended once the eviction was complete and the
18 occupants had vacated the premises. As such, they were no longer involved in the matter of the
19 condominium and could not assist me.

20 After speaking to the representative at Les Zieve and Associates, I again contacted Mark
21 Alston and inquired about contact information for the person(s) who had removed my personal
22 property. Mr. Alston refused to provide any contact or lead to assist me and advised me that the
23 property had been “trashed out” and ended the call.

24 In January 2012, I sent a written demand for reimbursement of damages to Citimortgage
25 and to Mark Alston. The demand included a list of items which I had become aware, so far had
26 been discarded. My communication was not responded to or acknowledged.

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1 On May 18, 2012, I filed this action against Citimortgage and Skyway Realty, (later
2 amended to include Mark Alston), seeking compensatory damages for the disposal of my Personal
3 Property.

4 On September 12, 2012, Mark Alston filed for Bankruptcy (see Request for Judicial Notice,
5 Exhibit 2). On or about June 30, 2013, I received a notice of a Motion to Reopen his bankruptcy
6 filed by Mark Alston to “avoid pursuant of Judgment of Marina J Boyd” (See attached Exhibit
7 2.A). I was not listed as a creditor in his original Bankruptcy petition.

8 In June 2014, I received copies of phone records for Skyway Realty phone number 310-
9 665-8694 pursuant to a subpoena for production of business records, which showed that this line
10 received multiple calls from my phone number of 310-663-4811 and 310-775-7671 (See attached
11 Exhibit 2).

12 In January 2014, I received copies of Mark Alston mobile phone number 310-963-1415
13 pursuant to a Citimortgage subpoena for production of business records, authorized by Mark
14 Alston, which showed a chronic pattern of past due invoices (See attached Exhibit 3).

15 On October 9, 2015, I took the Deposition of Mark Alston, a true and correct copy of Pages
16 23,58, 67, 68, 94, 95 are attached in support of this opposition as Exhibit 4).

17 On April 19, 2016, I took the Deposition of Kevin Smith, Citimortgage Person Most
18 Knowledgeable, a true and correct copy of Page 20 is attached in support of this opposition as
19 Exhibit 5.

20 On April 22 2016, I took the Deposition of Jeanine Cohoon, Citimortgage Person Most
21 Knowledgeable, a true and correct copy of Pages 64, 65, 66 and 67 are attached in support of this
22 opposition as Exhibit 6.

23 On April 26, 2016, I took the Deposition of Krista McCullough, Citimortgage employee, a
24 true and correct copy of Exhibit 3 from the deposition is attached in support of this opposition as
25 Exhibit 7.

26 I swear under penalty of perjury of the laws of the state of California that the foregoing is
27 true and correct to the best of my knowledge.
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Executed this 18th date of May, 2016.

DATE: May 18, 2016

By: _____
Marina J Boyd, Plaintiff in Pro Per