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2 Plaintiffs, by and through their attorney, Michael Fuller, allege the following:

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5 This Adversary Proceeding is one arising in the above-captioned bankruptcy case, filed
6 under Chapter 13 of Title 11 now open in this Court. This Court has jurisdiction over this
7 Adversary Proceeding pursuant to 11 U.S.C. §§ 105, 362(k), 542 and 28 U.S.C. §§ 157, 1334,
8 and 1331. The actions for violating the Automatic Stay and for a Turnover Order are core
9 proceedings under 28 U.S.C. § 157.
10

11 3.

12 This is an action for declaratory relief, injunctive relief, actual damages, punitive
13 damages, sanctions, and attorneys fees and costs brought by Stacey and Lisa Fields (“Plaintiffs”)
14 against Fannie Mae and Victoria Hawks (“Defendants”) resulting from continued willful and
15 malicious violations of the Automatic Stay and refusal to turnover property of the estate.
16

17 4.

18 Prior to filing this bankruptcy, Plaintiffs owed a home loan owned by Defendant Fannie
19 Mae.
20

21 5.

22 Plaintiffs filed for chapter 13 bankruptcy protection in the District of Oregon on or
23 around October 31, 2011.
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25 6.

26 Plaintiffs’ chapter 13 plan proposed to surrender the home located at 474 Raston Road,
27 Roseburg, Oregon 97471 (“the home”).
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7.

Upon commencement of Plaintiffs' bankruptcy case, Plaintiffs' personal property, as listed on petition Schedule B, became property of the estate.

8.

Defendants have not sought instruction from this Court or the chapter 13 trustee and have not filed for relief from the Automatic Stay in this case.

9.

Defendant Hawks delivered a letter to Plaintiffs dated November 3, 2011, asking Plaintiffs to call as soon as possible.

10.

Defendant Hawks indicated to Plaintiffs that Defendant Hawks was working on behalf of, and at the instruction of, Defendant Fannie Mae.

11.

Upon information and belief, Defendants were working together in a partnership or ongoing venture and shared an economic interest in carrying out pre-foreclosure and post-foreclosure duties under state and federal law.

12.

Upon information and belief, Defendants' duties are nondelegable and Defendants are vicariously liable for the acts of their independent contractors and agents, as well as for each other, in carrying out these duties.

13.

Upon information and belief, Defendants were related as principal and agent.

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14.

Upon information and belief, the wrongdoing of Defendant Hawks was in furtherance of her principal-agent relationship with Defendant Fannie Mae.

15.

Upon information and belief, Defendants' independent contractors and agents who committed wrongdoing while carrying out Defendants' pre-foreclosure and post-foreclosure duties were acting within the scope of their employment and in furtherance of Defendants' economic interests.

16.

Defendant Hawks made contact with Plaintiffs various times after the commencement of Plaintiffs' bankruptcy case.

17.

When Plaintiffs informed Defendant Hawks about their bankruptcy case and the Automatic Stay, Defendant Hawks said something to the effect of, "That doesn't matter to me."

18.

Defendant Hawks indicated to Plaintiffs that Defendant Fannie Mae sold the home.

19.

Upon information and belief, on or around January 28, 2012, Defendants intentionally changed the locks on the home after receiving actual notice of the Plaintiffs' bankruptcy case and the Automatic Stay.

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20.

As a result of Defendants' intentional actions, Plaintiffs were locked out of the home and deprived access to their personal property which was property of the estate.

21.

Plaintiffs requested access to the home to regain their personal property and Defendants willfully and maliciously refused to provide Plaintiffs access.

22.

On or around January 31, 2012, Plaintiffs' counsel faxed Defendants a letter notifying Defendants of the bankruptcy case and the Automatic Stay. Plaintiffs' counsel's letter asked Defendants to deliver a key to Plaintiffs' counsel's local office in Roseburg. Plaintiffs' counsel's letter sought to regain possession of Plaintiffs' personal property.

23.

Upon information and belief, Defendants willfully and maliciously ignored Plaintiffs' counsel's letter.

24.

On or around February 2, 2012, Plaintiffs' counsel called Defendants and left Defendants a voicemail asking for access to the home.

25.

Upon information and belief, Defendants willfully and maliciously ignored Plaintiffs' counsel's voicemail.

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26.

As a direct and proximate result of Defendants' actions, Plaintiffs have suffered actual damages, including loss of use of their personal property, anxiety and stress, among other negative emotions to be proven at trial.

27.

As a direct and proximate result of Defendants' actions, Plaintiffs have suffered actual damages in the form time spent and expenses including attorneys fees and costs.

28.

FIRST CLAIM FOR RELIEF

(WILLFUL VIOLATIONS OF THE AUTOMATIC STAY)

(11 U.S.C. § 362(k))

Plaintiffs incorporate the above by reference.

29.

Defendants' acts to exercise control over Plaintiffs' personal property constituting property of the estate, despite receiving actual notice of the Automatic Stay, constitute willful violations of 11 U.S.C. § 362.

30.

Defendants' refusal to turnover access to Plaintiffs' personal property constituting property of the estate, despite receiving actual notice of the Automatic Stay and various requests from Plaintiffs and Plaintiffs' counsel, constitute willful violations of 11 U.S.C. § 362.

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31.

Defendants continue to refuse to turnover to Plaintiffs what rightfully belongs to Plaintiffs, tantamount to common law theft.

32.

Defendants continue to refuse to respond to Plaintiffs requests or Plaintiffs' counsel's letter and voicemail, leaving Plaintiffs with no choice but to seek redress in this Court.

33.

Defendants willful and malicious actions violate the Automatic Stay and provide Defendants an unfair advantage over businesses that choose to responsibly carry our pre-foreclosure and post-foreclosure duties within the bounds of the law.

34.

Defendants' actions constitute extraordinary transgressions of socially tolerable behavior based on the social standards in Plaintiffs' community.

35.

Plaintiffs are entitled to and so seek punitive damages against Defendants.

36.

Plaintiffs were injured as a result of Defendants' willful violations, and so are entitled to actual damages, punitive damages, declaratory relief that Defendant violated the Automatic Stay, and attorneys fees and costs pursuant to 11 U.S.C. § 362(k).

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37.

SECOND CLAIM FOR RELIEF

(COMPENSATORY CIVIL CONTEMPT)

(11 U.S.C. § 105)

Plaintiffs incorporate the above by reference.

38.

Defendants acted to exercise control over Plaintiffs' personal property, despite receiving actual notice of the Automatic Stay and without first obtaining relief from the Automatic Stay.

39.

These actions, taken without first seeking instruction from this Court or the chapter 13 trustee, are in direct violation of this Court's Order and Defendants should be sanctioned and held in contempt pursuant to 11 U.S.C. § 105 and pursuant to this Court's inherent powers.

40.

THIRD CLAIM FOR RELIEF

(TURNOVER OF PROPERTY)

(11 U.S.C. § 542)

Plaintiffs incorporate the above by reference.

41.

Plaintiffs are entitled to and so seek a Turnover Order requiring Defendants to grant Plaintiffs access to their personal property constituting property of the estate. A Turnover Order is appropriate relief under 11 U.S.C. § 542.

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2 WHEREFORE, Plaintiffs request judgment against Defendants for the following:

- 3 A. Declaratory judgment that Defendants' actions violated the Automatic Stay;
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5 B. An Order holding Defendants in Contempt;
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7 C. Injunctive relief requiring Defendants turnover access to all personal property
8 constituting property of the estate to Plaintiffs;
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10 D. An award of actual damages against Defendants;
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12 E. An award of expenses, including reasonable attorneys fees and costs against
13 Defendants;
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15 F. An award of punitive damages against Defendants;
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17 G. An award of sanctions against Defendants;
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19 H. For such other and further relief as this Court may deem just and proper.
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Dated: February 20, 2012

/s/ Michael Fuller
Michael Fuller, OSB #09357
Trial Attorney for Plaintiffs