

FEB 08 2005

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JESUS S. GUZMAN and  
JOANN B. GUZMAN,

v.

OCWEN FEDERAL BANK, FSB,  
LASALLE NATIONAL BANK, AS  
TRUSTEE, ITS SUCCESSORS AND  
ASSIGNS, and SALOMON BROTHERS  
REALTY.

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CIVIL ACTION NO. \_\_\_\_\_

**JOINT NOTICE OF REMOVAL OF DEFENDANTS OCWEN FEDERAL BANK, FSB  
LASALLE NATIONAL BANK, AS TRUSTEE, ITS SUCCESSORS AND ASSIGNS,  
AND SALOMON BROTHERS REALTY**

TO THE HONORABLE UNITED STATES DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF TEXAS, CORPUS CHRISTI DIVISION:

Defendants Ocwen Federal Bank, FSB (“Ocwen”), LaSalle National Bank, as Trustee, its  
Successors and Assigns (“LaSalle”), and Salomon Brothers Realty (“Salomon,” all collectively  
“Defendants”), file this Joint Notice of Removal and respectfully show as follows:

1. Pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446, Defendants hereby remove cause  
number 03-061011-2, captioned *Jesus S. Guzman et al. v. Ocwen Federal Bank, FSB, et al.*,  
from the County Court at Law Number 2, Nueces County, Texas, to the United States  
District Court for the Southern District of Texas, Corpus Christi Division, the district and  
division within which such action is pending.
2. Plaintiffs Jesus S. and Joann B. Guzman (“Plaintiffs”) allege tort and contract claims arising

from a foreclosure. Trial began on February 7, 2005. That afternoon, taking such a position for the first time in the case, Plaintiffs' counsel said repeatedly in opening statement that the jury should determine Defendants' tort liability and damages by looking to standards in the Sarbanes-Oxley Act, 18 U.S.C. § 1514A *et seq.*, and went on to say that Plaintiffs' first witness would testify about such Sarbanes-Oxley matters when called the following day.

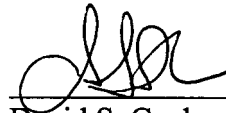
3. Any civil action of which the district courts of the United States have original jurisdiction may be removed from state court to federal court. 28 U.S.C. § 1441(a). The district courts of the United States have original jurisdiction of all actions arising under the Constitution, laws or treaties of the United States. 28 U.S.C. § 1331. The Sarbanes-Oxley Act is a set of federal law statutes codified at 18 U.S.C. § 1514A *et seq.* Therefore, this court has subject matter jurisdiction over this cause.
4. This notice of removal is filed within 30 days after receipt of the information provided by Plaintiffs regarding their intent to pursue causes of action alleging violations of the Sarbanes-Oxley Act and is timely filed under 28 U.S.C. § 1446(b).
5. All process, pleadings, and orders served upon Defendants in the removed action are filed herewith.
6. This Notice of Removal is filed and joined by each of the named Defendants. No other Defendants are parties.
7. Pursuant to 28 U.S.C. § 1446(d), on this day a copy of this Notice of Removal has been filed with the Clerk of the County Court at Law Number 2, Nueces County, Texas, in cause number 03-061011-2, captioned, *Guzman et al. v. Ocwen Federal Bank, FSB, et al.* Also

pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal has been provided to Robert Hilliard and William Oliver, attorneys of record for the Plaintiffs, by hand delivery as shown on the attached certificate of service.

WHEREFORE, pursuant to this Joint Notice of Removal and 28 U.S.C. § 1441, Defendants respectfully request that this Court assume jurisdiction of this case for all purposes.

Dated this 8<sup>th</sup> day of February, 2005.

Respectfully submitted,



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David S. Coale  
Attorney in Charge for Defendants  
Southern District I.D. No. 18564  
State Bar No. 00787255

**CARRINGTON, COLEMAN, SLOMAN &  
BLUMENTHAL, L.L.P.**

200 Crescent Court Ste. 1500  
Dallas, Texas 75201  
Telephone: 214/855-3000  
Facsimile: 214/855-1333

OF COUNSEL:

Vada L. Staha  
Southern District I.D. No. 19025  
State Bar No. 00784948

**BARKER, LEON, FANCHER & MATTHYS**


1200 Tower II  
555 N. Carancahua  
Corpus Christi, Texas 78478  
Telephone: 361/881-9217  
Facsimile: 361/882-9437

**CERTIFICATE OF SERVICE**

I certify that on February 8<sup>th</sup>, 2005, a complete and correct copy of **DEFENDANTS'**  
**NOTICE OF REMOVAL** was served on each party by delivery to the following attorneys of  
record in the manner indicated below:

Mr. William H. Oliver -**Via First Class Mail**  
Pipkin, Oliver & Bradley, L.L.P.  
1020 N. E. Loop 410, Ste. 810  
San Antonio, Texas 78209

Robert C. Hilliard **Via Hand Delivery**  
Hilliard & Munoz, L.L.P.  
719 S. Shoreline Ste. 500  
Corpus Christi, Texas 78401



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David S. Coale

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p><b>I. (a) PLAINTIFFS</b> Jesus Guzman and JoAnn B. Guzman</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Bexar County, Texas</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number) Robert Hilliard, Hilliard &amp; Munoz; 719 S. Shoreline, Ste. 500, Corpus Christi, Texas, 78401; 361-882-1612</p>	<p><b>DEFENDANTS</b> Ocwen Federal Bank, FSB; LaSalle National Bank as Trustee its Successors and Assigns; Salomon Brothers Realty</p> <p>County of Residence of First Listed Defendant <u>Palm Beach, Florida</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) David Coale Carrington, Coleman, Sloman, &amp; Blumenthal, L.L.P.; 200 Crescent Court, Ste. 1500, Dallas, Texas 75201; 214-855-3000</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input checked="" type="checkbox"/> 1 U.S. Government Plaintiff x <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)</p> <table style="width: 100%;"> <tr> <td style="width: 25%;"><b>PTF</b></td> <td style="width: 25%;"><b>DEF</b></td> <td style="width: 25%;"><b>PTF</b></td> <td style="width: 25%;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td>x 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td>x 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	<b>PTF</b>	<b>DEF</b>	<b>PTF</b>	<b>DEF</b>	Citizen of This State	x 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	x 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <p><b>CIVIL RIGHTS</b></p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <p><b>PRISONER PETITIONS</b></p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <p><b>LABOR</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p><b>FEDERAL TAX SUITS</b></p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding x  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
18 U.S.C. § 1514A et seq. 28 U.S.C. § 1441(a).

Brief description of cause:  
Plaintiffs Jesus S. and Joann B. Guzman ("Plaintiffs") allege tort and contract claims arising from a foreclosure;

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ Unknown CHECK YES only if demanded in complaint: JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE Feb. 8 '05 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_