Supreme Court No. 100401-0

(Court of Appels No. 81968-2-I)

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

RYAN HOWARD,

Plaintiff-Petitioner,

v.

JPMORGAN CHASE BANK, N.A. et al.,
Defendant-Respondent,

PETITION FOR REVIEW

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I. IDENTITY OF PETITIONER

Petitioner Ryan Howard[1] ("Howard") was the Plaintiff in the original action in Snohomish County Superior Court; Case No. 19-2-09262-2, and the Appellant in the Court of Appeals, Division I, Case No. 81968-2.

II. DECISION

Mr. Howard seeks review of the Court of Appeals Opinion (attached in the Appendix A). filed on August 2, 2021 which was not served to the Appellant until September 7, 2021. A Motion to Stay the Issuance of Mandate, Extension of Time to File a Motion to Publish and a Motion for Reconsideration was filed on September 02, 2021[2] (Appendix B); collectively denied on October 20, 2021, (Appendix C). In this instance a PFR is timely within 30 days after an order denying a Motion for Reconsideration under RAP 13.4.

III. ISSUES PRESENTED FOR REVIEW

1. Did the Court of Appeals (COA) violate due process rights afforded to Howard under WA. Const. art. I, §3 and the U.S. Const. - 14th Amendment, §1 through a failure of the Administrative Office of the Courts Email System to serve him the Courts Opinion Terminating Review?
    a. If other litigants have been affected by the AOC email system failure; does this create an issue of substantial public interest that should be determined by the Supreme Court?

[1] Howard has not and does not waive his claims, damages; a jury trial or any other immunities or rights afforded to him by law, civil liberties, service or jurisdictional challenges. See TOA

[2] This is the date Howard became aware that an Opinion was filed due to the Trustee posting a foreclosure notice on his residence.

2. Did the COA or Trial Court exceed its Subject Matter Jurisdiction or Authority by rendering a Ruling or Opinion that affects Howards Federal Taxes?
3. Did the COA or Trial Court ignore clear evidence of Fraud, Bad Faith or Misrepresentation on behalf of the Respondents or the Trustee?
4. Should the trial court have granted Summary Judgment when the Respondent's later admitted in their COA pleadings that amounts were clearly in dispute and Howard had a potential offset?
    a. Should the COA have remanded the case back to Trial Court?
5. Should rulings contrary to State and Federal laws or Opinions be upheld?
    a. Has the Bank or Trustee violated statutory provisions?
    b. Has the Trustee acted in bad faith?
    c. Why would the Trustee offer Howard $25,000 to indemnify them?
6. Have there been procedural defects by the Appeals Court to follow court rules in the absence of an attorney?
    a. Are duplicate legal efforts required by Howard?
    b. Are these efforts unnecessarily complicated by the courts decisions?
    c. Has the case complexity interfered with Howard's ability to obtain counsel or equal justice?
7. Would the incomplete disposal of the matter substantially alter the status quo to the ends that justice cannot be had without intervention by a Federal court?
8. Is a stay and de-novo review in District Court more appropriate?
    a. Is the COA mandate prejudicial to Howard obtaining relief?

IV. STATEMENT OF THE CASE

If the COA mandate is allowed to issue it is a clear violation of Howards Constitutional rights. The COA has failed to serve its opinion on Howard via email or regular mail when required to under RAP 18.5 or CR5 causing a severe prejudice to Howard and potentially many others due to an known intermittent failure of the Courts email system which they failed to resolve. Given the circumstances the COA prejudiced Howard by denying his reasonable motions to stay the issuance of mandate, extension of time to file a motion to publish and a Motion for Reconsideration.

What started as primarily a Quite Title action within the jurisdiction of the State trial court has shifted to a Ruling and Opinion which exceeds the State Courts authority or jurisdiction. A State Court does not have the ability to rule on Federal tax matters such as the validity of credits when they are tied to a 1098 Mortgage Interest Statement or multiple 1099-C's with income tax consequences; Federal District Court has exclusive jurisdiction on these matters.

Outside of service of process issues and procedural flaws, clear instances of fraud have been ignored in this case; in one day alone Chase created false payments of $229,676.00 and then issued a cancelation of debt for $409,911.39. These acts are a felony under Federal IRS tax law and carry a penalty of $500,000 and prison time of up to three years. [3]

QLS and Chase are aware of this and in Foreclosure Fairness Mediations the Trustee QLS offered Howard $25,000 to indemnify them.

[3] -see title 26 usc § 7206

V. ARGUMENT

A. Washington State Court Lacks Jurisdiction or Authority To Enforce The Opinion or Issue A Mandate

The Court of Appeals lacks subject matter jurisdiction which has rendered further proceedings moot and void in a State venue.

B. The COA Has Violated Howards Due Process Rights And Potentially Many Others In The Same Situation.

On September 2, 2021 the appellant Ryan Howard found the Trustee QLS posted a foreclosure notice when he had not received an Opinion from the COA. This was unusual, as Howard had received either letters mailed through the postal service or emails from the COA prior. That same day Howard made a motion to the COA to correct their mistake and Stay the issuance of the Mandate to allow Howard to file a Motion to Publish and a Motion to Reconsider; this motion was denied. Howard had to file the aforementioned motion twice because he did not receive a verification email upon the initial filing but did upon a second filing. Howard performed a simple public search of the courts email system reputation and found the Court server IP was on one or more SPAM[4] lists, which would prevent emails from ever reaching recipients as this filtering usually occurs prior to reaching the end user.[5] To reinforce this fact the State Appellate Court's Web Portal had a notice regarding intermittent email service.

[4] Domain Name System-based Blackhole Lists (DNSBLs)—sometimes referred to as Realtime Blackhole Lists (RBLs), deny lists, blocklists, or blacklists—are intended to inform email providers of IP addresses that are suspected of sending unwanted email.

[5] Logs indicating email bounce backs are used by IT admins to easily determine email rejection reasons such as SPAM lists.

The ongoing negligence of the Administrative Office of the Courts to maintain a reliable email system and the failure of the COA to send a critical copy of the Opinion through regular postal mail to Howard is clearly insufficient service of process covered under RAP 18.5, CR 3; CR 4; CR 4.1; CR 5; and CR 6 as limited examples. This petition should be considered by the Supreme Court as an issue of substantial public interest as the same problem has likely affected other litigants opening up the State to liability and retrials.

C. The Court Has Ignored Fraud And Misrepresentation By Chase And QLS

An official transcript was provided showing Chase customer service reps had told Howard the purported loan was tied to his former residence[6] and not his current residence which he purchased outright in 2003. Letters were sent to Howard stating the defunct loan tied to his other property was no longer on record. Recent evidence that meets the requirements of RAP 9.11 that Howard could not have anticipated further support allegations of fraud. For example in an official court deposition which Chase tried to have sealed; it was found the person alleged to have signed the purported Deed of Trust did not even work for Chase or WaMu at the time the DOT was endorsed. She admitted her stamp was used by others post her employment and that alterations such as adding signatures had been a normal course of action; Howard can show over five different versions of the purported DOT and has mutually recorded conversations of customer service representatives stating similar stories of fraud.

[6] 11522 Riviera PL SE, Seattle WA 98125 which Chase had foreclosed upon in 2012 and received approximately $620,000 in proceeds and issued a $535,000+ 1099-C

False representations concerning title under RCW 9.38.020 have been made. The evidence clearly supports Fraud[7] upon Mr. Howard or upon the Court; fulfilling the burden proof under RAP 12.9(b) or CR 60.

D. Howard Should Be Allowed Quite Enjoyment Of His Property

This matter has continued on and off for many years with Chase and the Trustee trying to manipulate data in their favor. The record shows they've taken inconsistent positions and provided false and conflicting data. Howard has paid taxes and insurance and has relied upon Chase customer service assertions that they have corrected the error. To now allow Chase to assert claims fourteen years later while committing tax fraud is unconscionable.

E. Extensive Damages Or Offsets Exist

Issuance of the mandate would substantially alter the status quo and violates his rights afforded to him by the State and US Constitution and would extend further fiscal harm and duress to Howard; it also perpetuates tortious interference with his business relations and economic expectations[8].

The continued actions by Chase and the Trustee QLS interfere with Howard's job, income, Federal taxes and personal life. The level of distress caused is substantial. Howard is gainfully employed and is an industry expert in the IT security space; having recently been a speaker at an event with 250,000 attendees; the damage to his reputation from an illicit foreclosure listed on the internet is severe as well as the intrusion from people driving up to his residence.

[7] The term "Fraud" is used broadly and should be construed referencing all claims and assertions in Howard's pleadings.
[8] See Restatement (Second) of Torts § 766-773 (1977)

F. The States Trial Court Ruling And COA Opinion Is Not Consistent With The Law

RAP 2.5(c)(2) states: “The appellate court may at the instance of a party review the propriety of an earlier decision of the appellate court in the same case and, where justice would best be served, decide the case on the basis of the appellate court's opinion of the law at the time of the later review.”

> “If a court enters a judgment while it lacks subject matter jurisdiction, the judgment is void and a party may challenge it at any time.”
> *Marley v. Dep’t of Labor & Indus.*, 125 Wn.2d 533, 538, 541, 886 P.2d 189 (1994).

The trial court exceeded its power and jurisdictional authority which flows forward nulling and voiding[9] subsequent findings in the COA.

G. A Trial De-Novo In Federal Court Is The Only Equitable Solution

Howard should not be forced to file suit in a federal court to challenge the adequacy of the state's procedures, federal law, jurisdiction conflicts, civil liberties and other violations. The ask is for the Supreme Court to allow this matter be heard de-novo in Federal Court where jurisdiction exists.

[9] A void judgment is a judgment, decree, or order entered by a court which lacks jurisdiction of the parties or of the subject matter, or which lacks the inherent power to make or enter the particular order involved, *State ex rel. Turner v. Briggs*, 971 P.2d 581 (Wash. App. Div. 1999).

VI. CONCLUSION

The Court of Appeals has long ago departed from the accepted and usual course of judicial proceedings in this matter. This is demonstrated by the complete lack of jurisdiction as well as blatant violations of Howard's rights. These collective issues are defined under RAP 13.4(b) as primary motivators for the Supreme Court to accept review. The process, procedural and other pleaded defects related to the mandate issuance are prejudicial to the Appellant/Petitioner and rights afforded to him under WA. Const. art. I, §3 and the U.S. Const. - 14th Amendment, §1; (and as pleaded throughout the matter).

RESPECTFULLY SUBMITTED this 19th day of November, 2021.

__/s/_____
Signature
Ryan Howard – Pro Se Appellant
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FILED
8/2/2021
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

RYAN HOWARD,

Appellant,

v.

JP MORGAN CHASE BANK, N.A., successor in interest to WASHINGTON MUTUAL BANK FA and QUALITY LOAN SERVICE CORP. OF WASH.,

Respondent.

DIVISION ONE

No. 81968-2-I

UNPUBLISHED OPINION

DWYER, J. — Ryan Howard appeals from an order granting summary judgment and dismissing his fraud and quiet title claims. Howard contends that JP Morgan Chase Bank (Chase) engaged in fraud when it credited his account $213,378.60. This is so, he asserts, because Chase did not disclose the source of the credited payments. However, because Chase provided the credits itself, notified Howard of the credits, and Howard suffered no damages from receiving the credits, Howard fails to establish that crediting his account was fraudulent.

Howard also asserts that the trial court erred by dismissing his quiet title claim. He contends that Chase accelerated the due date of his loan from Chase when it initiated foreclosure in 2013.[1] Thus, Howard avers, the statutory limitation period applicable to enforcement of the promissory note commenced in 2013 and expired in 2019. However, because Chase took no unequivocal and

[1] It subsequently ceased these efforts due to ongoing litigation.

affirmative act to accelerate the loan, Howard lacks a basis to quiet title to his property based upon this claim.

Accordingly, we affirm.

I

In November 2007, Howard obtained a $520,000 home equity line of credit (the Bothell Note) from Washington Mutual, secured by a deed of trust on his Bothell property.[2] The Bothell Note matures in 2037. It is an installment note, meaning that "[p]ayments for both Variable Rate Advances and any Fixed Rate Loans are due monthly." In 2009, Howard defaulted on the Bothell loan. In response, Chase attempted to collect payments and contacted him about loss mitigation.

In 2013, Chase attempted to foreclose on the Bothell property. To prevent this, Howard filed a lawsuit against Chase in Snohomish County Superior Court seeking to restrain the sale. This complaint alleged (1) that Chase violated the Criminal Profiteering Act,[3] (2) that Chase engaged in deceptive practices that violated the Consumer Protection Act,[4] (3) that Chase's action "constitute[d] a breach of the loan agreement and [Chase is] estopped to deny said representations as the Plaintiff relied upon such promises," (4) that Howard was induced to enter into the loan agreement by fraudulent promises, and (5) that Howard was entitled to proceed on a cause of action for an injunction.

[2] Chase acquired this loan from the Federal Deposit Insurance Corporation, acting as receiver, after Washington Mutual's failure in September 2008.

[3] Ch. 9A.82 RCW.

[4] Ch. 19.86 RCW.

The trial court initially dismissed Howard's claims of promissory estoppel and fraud in the inducement of the loan. Later, the trial court granted Chase's motion for summary judgment dismissal of Howard's claims of Criminal Profiteering Act violations, Consumer Protection Act violations, and for an injunction, thus dismissing the 2013 lawsuit with prejudice. Howard did not appeal from that final judgment, and Chase did not immediately resume foreclosure efforts on the Bothell property.

Between September 2014 and December 2015, Chase continued to contact Howard about his default on the Bothell loan. Because of Howard's continued loan default, on February 1, April 1, June 1, and August 1 of 2016, Chase informed Howard that it might initiate foreclosure proceedings.

In 2017, Chase credited Howard's account for any unpaid amounts that were more than six years past due. It also issued various tax forms associated with those credits. It notified Howard of these actions by sending him various letters detailing the credits. Chase did this in order to avoid litigating any statutory limitation period issue concerning whether Howard remained liable for all past due amounts stemming from his 2009 default and failure to make payments thereafter. These credits were also listed in an April 2018 letter responding to a question from Howard regarding the Bothell loan. Chase also sent similar letters to Howard in June and August of 2018. Chase sent Howard another letter in April 2019, with a payment history, which again informed Howard about the credits Chase had applied to his account crediting unpaid amounts incurred beyond the six-year limitation period.

Nevertheless, Howard continued in default, making no monthly payments. In June 2019, Chase resumed nonjudicial foreclosure efforts. The Bothell property was sold as a result of the foreclosure. The foreclosure trustee recorded a June 2019 notice of trustee's sale, which it rescinded in October 2019 after Howard filed this lawsuit.

Howard filed this second lawsuit against Chase in October 2019, seeking to restrain the foreclosure sale based on claims of fraud, Consumer Protection Act violations, and a claim to quiet title to the Bothell property. Chase filed a motion for summary judgment appending numerous declarations in support of its motion. The superior court granted summary judgment. Howard moved for reconsideration. That motion was denied.

Howard appeals.

II

Three matters are referenced in Howard's briefing that are not properly at issue in this appeal. None of these rulings was the subject of an assignment of error as required. Our rules require an appellant to set forth "[a] separate concise statement of each error a party contends was made by the trial court, together with the issues pertaining to the assignments of error." RAP 10.3(a)(4). We "will only review a claimed error which is included in an assignment of error or clearly disclosed in the associated issue pertaining thereto." RAP 10.3(g). Moreover, these issues were not the subject of developed briefing in Howard's opening brief, as is also required. Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992); State v. Donaghe, 172 Wn.2d 253,

263 n.11, 256 P.3d 1171 (2011) ("'We do not review issues inadequately briefed or mentioned in passing'" (quoting State v. Donaghe, 152 Wn. App. 97, 111 n.23, 215 P.3d 232 (2009))).

The first of these matters is Howard's claim that he has a cause of action for an injunction. However, in addition to both the lack of an assignment of error and the inadequate briefing, "an injunction is a remedy, not an independent cause of action." Markoff v. Puget Sound Energy, Inc., 9 Wn. App. 2d 833, 851, 447 P.3d 577 (2019), review denied, 195 Wn.2d 1013 (2020). Therefore, were we to entertain the issue (which we do not) we would rule that the superior court properly dismissed this cause of action.

The second matter is Howard's Consumer Protection Act cause of action. The trial court dismissed this cause of action, and Howard did not assign error to the trial court's ruling. Thus, the issue is not properly preserved for us for review.

The third matter is the question of the legality of the Bothell loan. In addition to being waived by the absence of an assignment of error and the absence of developed briefing, this issue is also barred by both issue and claim preclusion. The superior court relied, in part, on these principles when it granted Chase summary judgment. Thus, even were we to reach the merits of this issue (which we decline to do), we would affirm the trial court's ruling.

III

The trial court dismissed on summary judgment two claims that Howard has properly preserved for appeal. We address each of these claims separately.

A

"We engage in a de novo review of a ruling granting summary judgment. Thus, we engage in the same inquiry as the trial court." Green v. Normandy Park, 137 Wn. App. 665, 681, 151 P.3d 1038 (2007) (citation omitted). "Summary judgment is properly granted when the pleadings, affidavits, depositions, and admissions on file demonstrate that there is no genuine issue of material fact and that the moving party is entitled to summary judgment as a matter of law." Green, 137 Wn. App. at 681. "The 'facts' required . . . to defeat a summary judgment motion are evidentiary in nature. Ultimate facts or conclusions of fact are insufficient. Likewise, conclusory statements of fact will not suffice." Grimwood v. Univ. of Puget Sound, Inc., 110 Wn.2d 355, 359, 753 P.2d 517 (1988) (citation omitted), abrogated on other grounds by Mikkelsen v. Pub. Util. Dist. No. 1 of Kittitas County, 189 Wn.2d 516, 404 P.3d 464 (2017); accord Overton v. Consol. Ins. Co., 145 Wn.2d 417, 430, 38 P.3d 322 (2002). We construe all reasonable inferences from the evidence in the light most favorable to the nonmoving party. Green, 137 Wn. App. at 681.[5]

B

Howard next contends that the trial court erred by granting Chase's motion for summary judgment, thus dismissing his fraud claim. Howard focuses on the fact that Chase credited his loan for possible time-barred past-due payments in 2017. However, because Howard fails to show either falsity, misrepresentation,

[5] In his opening brief, Howard asserts that the trial court did not construe the evidence in his favor, as required on a summary judgment motion. This argument is of no moment. De novo review applies to our inquiry. We properly apply the summary judgment standards in our analysis.

or damages, he necessarily fails to establish that Chase engaged in fraud by crediting his account.

To establish fraud, a plaintiff must show: (1) a misrepresentation of an existing fact; (2) materiality; (3) falsity; (4) the speaker's knowledge of its falsity; (5) intent of the speaker that it should be acted upon by the plaintiff; (6) plaintiff's ignorance of its falsity; (7) plaintiff's reliance on the truth of the representation; (8) plaintiff's right to rely upon it; and (9) damages suffered by the plaintiff. Stiley v. Block, 130 Wn.2d 486, 505, 925 P.2d 194 (1996). Each of these elements is necessary, and the lack of any is dispositive. Repin v. State, 198 Wn. App. 243, 262, 392 P.3d 1174 (2017).

The trial court correctly granted summary judgment on two bases. First, no falsity or misrepresentation was shown. Chase alerted Howard that it had credited his account and sent him payment histories and documents detailing those credits. Chase explained that it credited the amounts to avoid including unpaid amounts beyond the six-year statutory limitation period when it foreclosed. Therefore, Howard did not prove fraud because he did not prove a misrepresentation of fact or falsity.

Second, Howard did not demonstrate that he suffered any damages. To the contrary, the evidence tends to show that Howard benefited from the credits because they reduced the balance he owed. Indeed, Howard did not argue that he was damaged in the superior court. And he does not attempt to explain on appeal what damages he suffered. Instead, Howard makes the claim that, by decreasing the amount of its monetary claims against him, Chase thereby

deprived him of the ability to contest his liability for a greater amount. This is nonsensical. By reducing its monetary claim against Howard, Chase conceded any possible contested amount. It gave Howard the benefit of the argument prior to initiating the foreclosure proceeding. Plainly, Howard was done no damage.

Howard's fraud claim fails on these two counts, as he does not show either damages or falsity. Accordingly, the trial court correctly granted Chase's motion for summary judgment, dismissing the claim of fraud.

C

Howard finally contends that the trial court erred by dismissing his cause of action seeking to quiet title to the property. Quiet title actions are "designed to resolve competing claims of ownership . . . [or] the right to possession of real property." Kobza v. Tripp, 105 Wn. App. 90, 95, 18 P.3d 621 (2001). A pertinent statute provides:

> The record owner of real estate may maintain an action to quiet title against the lien of a mortgage or deed of trust on the real estate where an action to foreclose such mortgage or deed of trust would be barred by the statute of limitations, and, upon proof sufficient to satisfy the court, may have judgment quieting title against such a lien.

RCW 7.28.300.[6]

> An action on a contract or agreement in writing must be commenced within six years. RCW 4.16.040. "As an agreement in writing, [a] deed of trust foreclosure remedy is subject to a six-year statute of limitations." Edmundson v. Bank of Am., NA, 194 Wn. App. 920, 927, 378 P.3d 272 (2016).

[6] We presume that Howard sought to quiet title under RCW 7.28.300, although this remains unclear from the record.

Merceri v. Bank of New York Mellon, 4 Wn. App. 2d 755, 759, 434 P.3d 84 (2018).

> Washington law distinguishes between demand promissory notes and installment promissory notes. Edmundson, 194 Wn. App. at 928-32. "'A demand [promissory] note is payable immediately on the date of its execution.'" Edmundson, 194 Wn. App. at 929 (internal quotation marks omitted) (quoting GMAC v. Everett Chevrolet, Inc., 179 Wn. App. 126, 135, 317 P.3d 1074 (2014)). As such, the statutory limitation period begins to run on a demand note when it is executed. Walcker v. Benson & McLaughlin, PS, 79 Wn. App. 739, 741-42, 904 P.2d 1176 (1995). An installment promissory note, on the other hand, is payable in installments and matures on a future date. See Edmundson, 194 Wn. App. at 929; see also Herzog v. Herzog, 23 Wn.2d 382, 388, 161 P.2d 142 (1945). "'[W]hen recovery is sought on an obligation payable by installments, the statute of limitations runs against each installment from the time it becomes due; that is, from the time when an action might be brought to recover it.'" Edmundson, 194 Wn. App. at 930 (quoting Herzog, 23 Wn.2d at 388).

Merceri, 4 Wn. App. 2d at 759-60.

The Bothell Note required Howard to make monthly installment payments. Therefore, the statutory limitation period commences separately as to each missed payment up to the 2037 maturation date. Thus, the statutory limitation period will not expire until 2043. Herzog, 23 Wn.2d at 388; Cedar W. Owners Ass'n v. Nationstar Mortg., LLC, 7 Wn. App. 2d 473, 484-85, 434 P.3d 554 (2019).

Acceleration of payments due on an installment note does not take place by chance. Long ago, our Supreme Court made clear that for the entire obligation on the note to become due, "[s]ome affirmative action is required, some action by which the holder of the note makes known to the payors that he intends to declare the whole debt due." Weinberg v. Naher, 51 Wash. 591, 594,

99 P. 736 (1909). We repeated this rule seven decades later, Glassmaker v. Ricard, 23 Wn. App. 35, 37-38, 593 P.2d 179 (1979), and again four decades after that. Merceri, 4 Wn. App. 2d at 759-60.

Thus, it is clear that, "acceleration must be made in a clear and unequivocal manner which effectively apprises the maker that the holder has exercised his right to accelerate the payment date." Glassmaker, 23 Wn. App. at 38.

However, "a lender is not required to accelerate the loan in order to pursue a nonjudicial foreclose. . . . [A]cceleration does not occur automatically by invoking the power of sale." 4518 S. 256th, LLC v. Karen L. Gibbon, PS, 195 Wn. App. 423, 445, 382 P.3d 1 (2016); accord Terhune v. N. Cascade Tr. Servs., Inc., 9 Wn. App. 2d 708, 719, 446 P.3d 683 (2019) ("And even the initiation of nonjudicial foreclosure proceedings does not automatically accelerate a note.").

Howard contends that the statutory limitation period applicable to the enforcement of the Bothell Note expired because Chase accelerated the debt, thus essentially turning the installment note into a demand note. In support of this contention, Howard argues that language in the 2013 notice of trustee's sale and the unconsummated foreclosure sale in 2013 necessarily accelerated the due date of the Bothell Note. Thus, he claims, the six-year statutory limitation period began in 2013 and expired in 2019.

Howard's assertion fails. His first claim, that the Bothell loan was accelerated because the wording of the 2013 notice of trustee sale states that it was collecting on the "Obligation," does not support his argument. He contends

that the capitalization of the word "Obligation" in the 2013 notice of trustee sale implies that it was a demand for the payment of the entirety of the amount due on the note. To the contrary, the capitalization of a statutorily required word does not clearly and unequivocally indicate that Chase accelerated the loan. See Merceri, 4 Wn. App. 2d at 761 ("[C]lear and unequivocal" action required to accelerate). Acceleration cannot be established by implication.

Howard next argues that, because Chase initiated the 2013 sale, Chase accelerated the Bothell loan. But the initiation of a foreclosure proceeding does not have this effect. Terhune, 9 Wn. App. 2d at 719. There is no authority for the proposition that Howard advances. All legal authority is to the contrary.

Because Chase did not act to unequivocally and affirmatively accelerate the Bothell loan, the statutory limitation period applicable to the promissory note and deed of trust securing it was not altered. The limitation period does not expire until 2037. The trial court correctly granted summary judgment in favor of Chase.

Affirmed.

WE CONCUR:

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

RYAN HOWARD,

Appellant,

v.

JPMORGAN CHASE BANK, N.A. et al.,.,

Respondent.

Case No. 81968-2-I

MOTION TO STAY ISSUANCE OF MANDATE AND FOR EXTENSION OF TIME

1. IDENTITY OF MOVING PARTIES

Ryan Howard, Appellant

2. STATEMENT OF RELIEF SOUGHT

Today on September 2, 2021 the Appellant Ryan Howard received a Notice of Trustee's Sale from the Respondents Trustee QLS; who is barred by written agreement from taking any action while litigation is pending. This pre-mature Notice of Trustee's sale contains new evidence that reinforces Howard's case. Howard was told by the court Clerk this matter would not be heard until September; this timing expectation tied to unfortunate circumstances described further herein as well as lack of any notice from this court has not given Howard an opportunity to file a Motion to Reconsider nor time to form a Request for Discretionary Review to the Supreme Court.

In looking at the Washington Court summary it appears an Opinion was issued on August 2, 2021 with no notice to Howard. RAP 13.4 states in part "a petition for review must be filed within 30 days after the decision is filed.". Today is September 2, 2021 which would make a Request for Discretionary Review to the Supreme Court timely along with a Motion for a time extension to file.

Adequate time is needed to incorporate the new evidence provided by The Notice of Trustee's Sale posted today and to review the Opinion of this court which was not sent to Howard to file a Motion to Publish, Motion to Reconsider or a Petition for Review.

The request is that the honorable Court stay the Mandate and allow Howard to file a Motion to Publish and a Motion to Reconsider at its timing discretion; in the alternative the request is to allow 32 days until October 4, 2021 to file a Petition for Review.

3. FACTS RELEVANT TO MOTION

ROOF COLLAPSE & SEPTIC SYSTEM FAILURE

On June 21, 2021 Howard filed a Reply Brief with the expectation that the case would be ruled upon in September or later based on the courts busy schedule. After submitting this brief a section of the roof/ceiling in Howard's residence collapsed requiring immediate repair to the entire roof structure including removal of over 18,000 pounds of existing roofing material and wood. Structural issues were found that entailed fixing walls due to water routing down the inner walls causing dry rot.

To make things much worse on September 23, 2021 an Amazon driver drove over the lawn and Septic system causing it to also fail; both issues are still being mitigated and proof can be provided. The failure of the septic system necessitated turning off file storage servers due to flooding in the basement and the removal of drywall due to grey water damage; Howard does not have access to his legal data and files as they all had to be moved into a storage container on an emergency basis to prevent damage from both the grey water along with rain and debris from the roof and basement repairs.

Attorney Status and Workload:

The attorney whom filed this case disappeared and Howard has not been able to find a replacement willing to step in. Ryan is trying to represent himself Pro Se as best as possible given that he works a mission critical Infrastructure position as a high level firewall engineer dealing with an unprecedented level of Cyber-attacks against public and private systems. On top of working through coordinating massive emergency home repairs Howard has been working over 14 hour days with very little sleep.

Health and Work:

In early August Howard was notified that he was exposed to COVID-19 in the workplace requiring extensive testing and medical evaluations. He's at a high risk for a stroke or heart attack especially given the extreme emergency repair circumstances, lack of notice and restricted access to written records and digital data relating to this matter.

Financial and Ethical:

The expense and stress of repairs shows Howard's commitment to this property and his assertions; it would make no sense to proceed forward otherwise. The efforts to mitigate the disappearance of his attorney tied to a very high workload have created a severe legal disadvantage in this situation that could not have been avoided. Most in Howard's situation would have had a mental breakdown; he's trying to move forward in good faith to resolve this matter in the most difficult of times one could imagine and asks for the fundamental Right to Be Heard.

4. GROUNDS FOR RELIEF AND ARGUMENT

Pursuant to the Rules of Appellate Procedure 18.8(a), the appellate court may enlarge the time in which an act must be done in order to serve the ends of justice. The mandate has not been issued so the court not limited by RAP 12.7 in its broad powers to adjust, waive or alter the provisions of any of rules, acts or timing. Likewise under RAP 13.4 he is within the timing window to file a Petition for Review with the Supreme Court but lacks both time and access to necessary information which would allow him to make a meaningful argument due to clearly extraordinary circumstances which can be verified by third parties.

No prejudice will be caused by a short delay to ensure justice is met and we have finality here. It's asserted that in bad Faith the Trustee and Respondent have violated a written agreement to hold off any foreclosure proceedings while litigation is pending; additionally the content of the Trustee Sale Notice brings up further evidence that supports Howard's claims. New evidence, irregularities, accident or surprise and other grounds exist for the Honorable court to grant Howards requests.

RESPECTFULLY SUBMITTED this 2nd day of September 2021.

__/s/_____
Signature

Ryan Howard – Appellant
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Bothell, WA 98012
ryan@ryanhoward.org
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(Direct Mailing Address)

RYAN HOWARD - FILING PRO SE

September 02, 2021 - 4:49 PM

Transmittal Information

Filed with Court:	Court of Appeals Division I
Appellate Court Case Number:	81968-2
Appellate Court Case Title:	Ryan Howard, Appellant v. JP Morgan Chase Bank, N.A., et al., Respondents
Superior Court Case Number:	19-2-09262-7

The following documents have been uploaded:

- 819682_Motion_20210902163956D1988072_8970.pdf
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- rockymcdonald@gmail.com
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- ryan@ryanhoward.com
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LEA ENNIS
Court Administrator/Clerk

The Court of Appeals
of the
State of Washington

DIVISION I
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Seattle, WA
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October 20, 2021

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Case #: 81968-2
Ryan Howard, Appellant v. JP Morgan Chase Bank, N.A., et al., Respondents
Snohomish County Superior Court No. 19-2-09262-7

Counsel:

Enclosed please find a copy of the Order Denying Motion for Extension of Time entered by this court in the above case today.

Sincerely,

Lea Ennis
Court Administrator/Clerk

lam

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

RYAN HOWARD,

Appellant,

v.

JP MORGAN CHASE BANK, N.A., successor in interest to WASHINGTON MUTUAL BANK FA and QUALITY LOAN SERVICE CORP. OF WASH.,

Respondent.

DIVISION ONE

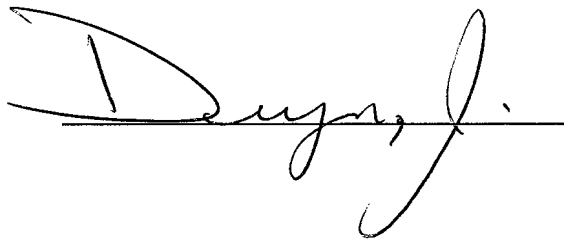
No. 81968-2-I

ORDER DENYING MOTION FOR EXTENSION OF TIME

The appellant having filed a motion to stay issuance of mandate and extension of time to file a motion to publish and a motion for reconsideration, and a majority of the panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that Appellant's "Motion for Extension of Time" to file other motions in this court is denied.

For the Court:



RYAN HOWARD - FILING PRO SE

November 19, 2021 - 4:48 PM

Transmittal Information

Filed with Court:	Court of Appeals Division I
Appellate Court Case Number:	81968-2
Appellate Court Case Title:	Ryan Howard, Appellant v. JP Morgan Chase Bank, N.A., et al., Respondents
Superior Court Case Number:	19-2-09262-7

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- 819682_Petition_for_Review_20211119164723D1975241_9234.pdf
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