No. 46333-4-II

THE COURT OF APPEALS OF THE STATE OF WASHINGTON, DIVISION II

JOHN O'NEILL, vs. CHWEN-JYE JU and FRANCES DU JU,	Plaintiff, Defendants;
and	
FRANCES DU JU, vs. CHWEN-JYE JU,	Cross-claimant pro se, Cross-defendant;
and	
FRANCES DU JU, vs. JPMORGAN CHASE BANK, N.A. and BISHOP, MARSHALL & WEIBEL, P.S.	**Appellant** and Third Party Plaintiff pro se, **Respondents** and Third Party Defendants.

OPENING BRIEF OF APPELLANT

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I. INTRODUCTION

Bishop, Marshall & Weibel, P.S.'s (hereinafter "Bishop") counsel identified that this case is regarding "collusive bidding" (RP 4/4/14, 12:20) at the June 21, 2013, Trustee's Sale. Mr. John O'Neill, the successful purchaser of the Trustee's Sale, paid $172,500 after a per se violation of RCW 61.24.135(1). Mr. O'Neill then sold the premises at $282,000 on April 1, 2014. A quick-illegal-money of "$109,500 minus his cost" was his gain in nine months. Frances Ju bought the premises in April 1989 and invested money in the premises. Her gain in twenty-four years was less than a half of Mr. O'Neill's illegal gain.

The beneficiary, JPMorgan Chase Bank, N.A. (hereinafter "Chase"), and the Successor Trustee Bishop received money from the Trustee's Sale and did not care about Mr. O'Neill's per se violation of RCW 61.24.135(1) and Frances Ju's right and damages. The fact that Bishop withheld $75,819.44 of Surplus Funds in its pocket for forty-eight days before it filed the funds with the Superior Court made Frances Ju unable to obtain a "bridge loan" from her relatives. Frances Ju had no financial ability to rent a place or move to comply with the 20-day time frame that the Washington legislative set.

Judge Stahnke disregarded RCW 59.12.090 to issue a questionable Writ of Restitution. Mr. O'Neill took advantage of Judge Stahnke's disregard of the statute and prematurely brought a deputy to the premise to

arrest Frances Ju without a warrant. The arrest was in violation of the 4th and 6th Amendments of the U.S. Constitution.

'Homeowners facing foreclosure – most often due to job loss, illness, or other unavoidable hardship – are vulnerable to unfair and deceptive acts by beneficiaries and trustees, who wield the "tremendous" and "incredible" power to sell the homeowner's property.' Klem v. Washington Mutual Bank, 176 Wn.2d 771, 789, 295 P.3d 1179 (2013). Washington State Consumer Protection Act (hereinafter "CPA") therefore plays a vital role in protecting homeowners' rights. Even though "A hearing should be fair and impartial, and before an unbiased tribunal" has been held by the U.S. Supreme Court since 1913, the two judges, Judge Stahnke and Judge Gregerson, whom Frances Ju faced, did not want to treat foreclosed homeowner Frances Ju fairly and impartially.

When Frances Ju filed her Motion for Indigency with the Ex Parte Department, Judge Gregerson grabbed his opportunity. The next day, September 6, 2013, JPMorgan Chase & Co. mailed its Motion for Summary Judgment and Bishop's supporting Affidavit. Both identified Judge Gregerson as the presiding judge to hear the Motion while Judge Stahnke still presided over this case until the October 25, 2013, hearing.

When Judge Gregerson granted Frances Ju's Motion for Leave to Amend Third Party Complaint, "so long as no further claims are brought against Mr. O'Neill" was stated in Sub No. 125 Minute Order. Judge Gregerson wants to protect Mr. O'Neill. Nevertheless, his unfair granting of Chase's and Bishop's Motions for Summary Judgment made Frances Ju

the sole victim in this case. Chase and Bishop did not address the unfair or deceptive act or practice under the CPA in their Motions for Summary Judgment and failed to make valid argument in their Replies. Frances Ju showed the Superior Court that it was likely that Chase and Bishop conducted false notarization of documents. There are significant issues of material fact in dispute as well; and only a jury can decide which facts to believe. Judge Gregerson's bias and prejudice have arisen to violation of Frances Ju's Due Process right under the Fourteenth Amendment of the U.S. Constitution.

There are broad, pressing public concerns at play in this instance, including the need to urge the Washington legislative to enact statutes to protect vulnerable foreclosed homeowners.

Frances Ju respectfully requests that this Court reverse Judge Gregerson's rulings and remand the case with specific instructions.

II. ASSIGNMENTS OF ERROR

A. ASSIGNMENTS OF ERROR

1. Judge Gregerson erred in entering the Orders Granting Chase's and Bishop's Motions for Summary Judgment, dated April 4, 2014.

2. Judge Gregerson erred in entering the four Orders Granting Chase's and Bishop's Motions for Partial Final Judgment and Dismissal, dated May 2, 2014.

B. ISSUES PERTAINING TO THE ASSIGNMENTS OF ERROR

1. Chase and Bishop committed per se violation of RCW 61.24.050(2)(a)(i) and did not address the issue of the per se violation of RCW 61.24.135(1), and the violations of Chapter 19.86 RCW, in their Motions for Summary Judgment; nor did they make valid argument in their Replies. It was also likely that Chase and Bishop conducted false notarization of documents. Should Judge Gregerson Grant Chase's and Bishop's Motions for Summary Judgment? Was the Due Process Clause of the Fourteenth Amendment violated? Shouldn't Judge Gregerson have disqualified himself in the proceeding?

2. Judge Gregerson did not allow Frances Ju's daughter to file an Affidavit after the April 4, 2014, hearing while the substance of the evidence was made known to him by Frances Ju's offer and was apparent from the context within which questions were asked. Judge Gregerson disregarded Frances Ju's Oppositions that Chase's and Bishop's documents might have been falsely notarized and that Bishop or Weibel did not include any evidence that Bishop published the Trustee's Sale in the newspaper to comply with RCW 61.24.040(3); and did not rule that the Jury will decide on the false notarization issue and that Chase and Bishop should have included a copy of the publications. Did Judge

Gregerson's ruling against Frances Ju's daughter's Affidavit comply with ER 103(a)(2), ER 601, and ER 901(b)(1)? Did Judge Gregerson apply his double standard, bias and prejudice in entering the Orders Granting Chase's and Bishop's Motions for Summary Judgment?

3. Chase and Bishop did not address Frances Ju's request for declaratory and other relief when Judge Gregerson granted Chase's and Bishop's Motions for Summary Judgment. Both Chase and Bishop procedurally leaped directly to entry of final judgment when Frances Ju's viable claims remained. Their Motions for final judgment are actually Dispositive Motions in disguise, for which CR 56(c) requires 28-day motion calendar. Should Judge Gregerson Grant Chase's and Bishop's Motions for Final Judgment?

III. STATEMENT OF THE CASE

A. STATEMENT OF THE PROCEDURE

On September 5, 2013, Frances Ju filed her Motion for Indigency with the Ex Parte Department (Sub No. 42). When she waited at Department 2, she noticed that the Honorable David E. Gregerson walked past where she sat at least twice and looked at her. The next day, September 6, 2013, JPMorgan Chase & Co. mailed its Motion for Summary Judgment to the Superior Court and Frances Ju. Page 1 of the Motion specified, "HON. DAVID E. GREGERSON" (CP 331). Page 1 of

the accompanying Bishop, Marshall & Weibel, P.S.'s (hereinafter "Bishop") Affidavit of David A. Weibel also specified, "Honorable David E. Gregerson" (CP 274).

The Honorable Daniel L. Stahnke still presided over this case until the October 25, 2013, hearing (Sub No. 23 of case No. 13-2-02832-1). Nevertheless, Judge Gregerson heard JPMorgan Chase & Co.'s Motion for Summary Judgment on October 18, 2013 (Sub No. 73).

On December 26, 2013, Frances Ju filed her Motion for Leave to Amend Third Party Complaint (Sub No. 103). The Superior Court gave her a January 10, 2014, hearing date. After Mr. O'Neill did not file any response by January 8, 2014, Judge Gregerson instructed his Judicial Assistant to send an e-mail that he was striking the hearing and Frances Ju will need to recite the hearing for after February 6, 2014 (Sub No. 119, Ex. C).

At the February 7, 2014, hearing, Judge Gregerson made it clear: "Defendant Ju's Motion to for Leave to Amend her Complaint; Granted as to adding additional parties, so long as no further claims are brought against Mr. O'Neill." (Sub No. 125 Minute Order).

On February 24, 2014, and March 6, 2014, Chase and Bishop filed their Motions for Summary Judgment, respectively (CP 7-21; CP 22-32). Chase and Bishop committed per se violation of RCW 61.24.050(2)(a)(i) and did not address the issue of the per se violation of RCW 61.24.135(1), and the violations of Chapter 19.86 RCW, in their Motions for Summary Judgment; nor did they make valid argument in their Replies. Chase and

Bishop did not challenge the facts that a man kept yelling, "Wow! Wow! Wow! Stop! Stop!" and made Mr. O'Neill the successful purchaser at the June 21, 2013, Trustee's Sale (CP 153; CP 129). Judge Gregerson did not allow Frances Ju's adult daughter to file an Affidavit after the hearing. There was no discovery before Chase and Bishop filed their Motions for Summary Judgment.

Frances Ju's Oppositions to Chase's and Bishop's Motions for Summary Judgment (CP 150-168; CP 127-143) showed the Superior Court that the moving parties were not entitled to judgments as a matter of law; and that this case should proceed to trial because there were significant issues of material fact in dispute, and only a jury can decide which facts to believe. Nevertheless, Judge Gregerson granted Chase's and Bishop's Motions.

On April 15 and 21, 2014, Chase and Bishop filed their Motions for Partial Final Judgment, respectively (CP 178-182; 183-185). Frances Ju's Responses stated that Chase and Bishop attempted to procedurally leap directly to entry of judgment dismissing all claims against them and dismissing them as parties to this action before Frances Ju's request for declaratory and other relief in ¶¶ G and H of "Prayer for Relief" of the Amended Third Party Complaint has been fully litigated (CP 204-214; CP 189-199). Their Motions for final judgment were actually Dispositive Motions in disguise, for which CR 56(c) required 28-day motion calendar. Nevertheless, Judge Gregerson granted Chase's and Bishop's Motions.

On May 30, 2014, Frances Ju filed Notice of Appeal to the Court of Appeals on six Orders that Judge Gregerson granted (CP 215-236).

B. STATEMENT OF FACTS

Frances Ju stated in her Opposition (CP 352), 'In Schedule 14A Proxy Statement that Third Party Defendant JPMorgan Chase & Co. filed with the U.S. Securities and Exchange Commission in April 2012, it shows that JPMorgan Chase & Co. has enough voting stock to influence of the board of directors and control the management and operations of JP Morgan Chase Bank. It means that JPMorgan Chase & Co. can organize JPMorgan Chase Bank's management structure and company bylaws, setting forth rules related to corporate governance. Under common law, a court may "pierce the corporate veil" of the parent company and both companies will be viewed as a single entity.' Frances Ju also cited numerous cases. At the October 18, 2013, hearing, Frances Ju asked Judge Gregerson, 'If Third Party Defendant wants to contend "piercing the corporate veil", I would ask this Court to allow me to amend my pleading to include JPMorgan Chase Bank and the Successor Trustee as Third Party co-defendants.' Judge Gregerson did not allow Frances Ju to amend pleading and simply granted JP Morgan Chase & Co.'s Motion for Summary Judgment (Sub No. 77).

December 6, 2013, was the due date for Frances Ju to file her Amended Motion for Discretionary Review with the Supreme Court of Washington State. At the December 6, 2013, hearing, Judge Gregerson

instructed Frances Ju to file a Motion for Leave to Amend Third Party Complaint. "Shouldn't the trial court allow Frances Ju to amend pleadings to include the Successor Trustee and JPMorgan Chase Bank as Third Party co-defendants under the doctrine of compulsory party joinders?" was one of the eight issues Frances Ju presented for review. On December 7, 2013, Mr. John O'Neill filed a less-than-a-hundred-words Respondent's Answer. On December 10, 2013, Frances Ju e-filed Petitioner's Reply. Frances Ju stated in the Petitioner's Reply that Mr. O'Neill's less-than-a-hundred-words Answer had misspelling and grammar problems, other than that he failed to state any valid argument; nor did he comply with RAP 10.4(a) and 17.4(g)(2). (Sub No. 124D, Ex.A).

The Supreme Court did not issue its ruling on December 19, 2013. After having waited the Supreme Court for a week, Frances Ju filed her Motion for Leave to Amend Third Party Complaint pursuant to Civil Rules 15, 18, 19 and 20 (Sub No. 103). Frances Ju stated, "This Motion is to ask for this Court's leave to amend Third Party Complaint to conform to the facts and evidences that have been filed by JPMorgan Chase Bank's parent company and the Successor Trustee. CR 15(b)." (Sub No. 103, P.7). The Superior Court gave her a January 10, 2014, hearing date. On Monday, December 30, 2013, an anonymous Acting Commissioner of the Supreme Court issued a Ruling Denying Review (Sub No. 109).

Mr. O'Neill did not mimic his then-attorney (Sub. No. 49) to file a Notice of Unavailability when he claimed that he would be out of town until February 6, 2014. On December 31, 2013, and January 3, 2014, Mr.

O'Neill sent Judge Gregerson's assistant, Ms. Rhonda Stockman, e-mails. (Sub No. 119, Ex. A-B) regarding his going out of town until February 6, 2014. Mr. O'Neill did not send Frances Ju a copy until more than an hour later on January 3, 2014. After Mr. O'Neill did not comply with the court rules to file his Responses to Frances Ju's two Motions by January 8, 2014, Judge Gregerson struck the January 10, 2014, hearing (Sub No. 119, Ex.C). Frances Ju was instructed to recite the hearings to February 7, 2014.

On early morning of January 27, 2014, Mr. O'Neill was seen at the Clark County courthouse. Mr. O'Neill used the twenty-eight-day continuance to put the premises on the market for sale. On February 3, 2014, the Ex Parte department of Department Nine found that Frances Ju's Motion for Preliminary Injunction to preserve the status quo had likelihood of success on the merits and possibility of irreparable injury; and issued a Preliminary Injunction.

On February 7, 2014, Judge Gregerson dissolved the Preliminary Injunction issued by Department Nine and Ordered Frances Ju to pay $800 to Mr. O'Neill's attorney (Sub No. 128). On April 1, 2014, Mr. O'Neill sold the premises for $282,000 and transferred a Special Warranty Deed.

It took one hundred twelve days for Judge Gregerson to grant leave for Frances Ju to amend her Third Party Complaint (Sub No. 126). Frances Ju updated Bishop's official name and served Summons and Amended Third Party Complaint (CP 1-6) ("hereinafter ATP Complaint") upon Chase and Bishop.

Chase filed its Motion for Summary Judgment on February 24, 2014 (CP 7-21). Bishop filed its Motion for Summary Judgment and Declaration of David A. Weibel on March 6, 2014 (CP 22-120). As there was no service by electronic means between Bishop and Frances Ju, she filed her Opposition to Bishop's Motion on March 21, 2014 (CP 121-143). Her Opposition to Chase's Motion was filed on March 24, 2014 (CP 144-168). Bishop filed its Reply on March 31, 2014 (CP 169-177). Chase filed its Reply on April 1, 2014. CR 56(c) states, "The moving party may file and serve any rebuttal documents not later than 5 calendar days prior to the hearing." At the April 4, 2014, hearing, Frances Ju asked Judge Gregerson to strike both Replies (RP 4/4/14, 15:8-13). Frances Ju then realized that March 31, 2014 was "the next day nearer the hearing which is neither a Saturday, Sunday, or legal holiday." Thus, Bishop's Reply made it at the last minutes while Judge Gregerson should have stricken Chase's Reply.

The parties did not go through the discovery process and Chase and Bishop immediately filed their Motions for Summary Judgment after being served with Summons. If Judge Gregerson would have granted Frances Ju's request (RP 4/4/14, 17:5-18:17) so that Frances Ju can tell her adult daughter that the Court wants her to file an Affidavit regarding what she saw and heard at the June 21, 2013, Trustee Sale, her daughter would have complied and filed her Affidavit. Chase and Bishop forfeited their discovery process and Frances Ju's daughter did not want to get involved if she had not had to, especially after Judge Stahnke and Mr.

O'Neill disregarded RCW 59.12.090; and after Mr. O'Neill prematurely brought a deputy to the premises to arrest Frances Ju without a warrant in violation of the 4th and 6th Amendments of the U.S. Constitution.

Judge Gregerson disregarded Frances Ju's Oppositions that Chase's and Bishop's documents might have been falsely notarized and that Bishop or Weibel did not include any evidence that Bishop published the Trustee's Sale in the newspaper (CP 139 ll.3-4; CP 164 ll.23-24) to comply with RCW 61.24.040(3); and did not rule that the Jury will decide on the false notarization issue and that Chase and Bishop should have included a copy of the publications. Judge Gregerson denied Frances Ju's request for her daughter to write an affidavit. Bishop did not challenge the issue until its Reply, which was filed with the Superior Court four days before the April 4, 2014, hearing. Bishop's challenge was not stated specifically but one of the eight facts that Bishop stated. (Sub No. 158, P.5). The parties did not go through the Discovery process and CR 26 requires thirty days for the other party, Frances Ju, to respond.

Even though Chase and Bishop filed their Motion for Summary Judgment separately, Judge Gregerson did not give Frances Ju twice of the time to respond to the Motions separately. Judge Gregerson simply habitually granted Frances Ju's opposing parties' motions. Judge Gregerson made it clear:

> The real question before the Court in this particular case, Ms. Ju -- and I know you've been in front of me, Ms. Ju, probably at least ten times and at every hearing I always tell you that you – I strongly recommend that you have an attorney who understands the laws and the procedures. I admire the work that you've done on your own, but there is no substitute

for an attorney that has the training and the experience and the education to be able to handle these matters. (RP 4/4/14, 29:20-30:3)

The concern of "hiring an attorney" was addressed by Judge Gregerson almost every time Frances Ju attended the hearings. However, as the Superior Court had still withheld Frances Ju's Surplus Funds of $35,345.24 since the October 25, 2013, Order, Frances Ju had to rely on her children to financially support her for basic living expenses. Almost every penny counted when Frances Ju was still waiting for the disbursement of the Surplus Funds. Frances Ju had no budget to hire any attorney.

THE COURT: Okay. Ms. Ju, here's my concern - -
MS. JU: Yes.
THE COURT: - - and I know I 'm sounding like a broken record here, at this point, but I know you've been in front of me at least four or five times. Okay. Do you recall what I've strongly recommended to you each and every time that you've been in front of me? Do you recall my advice to you, my strong suggestion to you each and every time that you've been in front of me?
MS. JU: Is that hiring an attorney?
THE COURT: Yeah.
MS. JU: Yeah, but the thing is the Court has not disbursed the surplus funds.
THE COURT: Okay. I'm just making sure you and I are on the same page because you've been in front of me many times - -
(RP 2/7/14, 6:20-7:10).

"Hiring an attorney" was addressed by Judge Gregerson and "having not received the Surplus Funds" was replied by Frances Ju at almost every hearing that Judge Gregerson presided. The difference between the February 7, 2014, hearing and the previous hearings was that Judge Gregerson's facial expression was very hostile. The CD that the Superior Court produced may have been modified to some degrees. Both

Ms. McCoy's clothes and Frances Ju's brown suit top lost the color of red. Otherwise, Judge Gregerson's red face when he spoke to Frances Ju in most time during the hearing would have been able to be seen.

This also shows that Judge Gregerson had a personal bias or prejudice concerning Frances Ju's not representing by an attorney. There might also been some other factors, as stated below, that made Judge Gregerson disregard integrity when he presided over this case. Rule 2.11(A)(1) of the Washington State Code of Judicial Conduct requires that Judge Gregerson disqualify himself.

At the February 7, 2014, hearing, Judge Gregerson even pretended that he knew nothing about Frances Ju's Surplus Funds.

MS. JU: Can Your Honor order the Court to disburse the surplus funds to me?
THE COURT: That's not front of the Court right now. There's no motion pending on what to do - - are there surplus funds in the registry? Do we even know?
MS. McCOY: Apparently there's about $35,000 that has no other liens against it - -
THE COURT: Okay.
MS. McCOY: --- but I'm not sure what the status on it is.
THE COURT: All right. Now, you would have to cite that - - again, there's a court rule and a procedure for this, Ms. Ju. I'm sounding like a broken record but a lawyer would know how to bring this motion and notify all the parties and give appropriate number of days' notice to everyone involved so that anybody who has an objection could answer. And then the Court would have authority to consider disbursing money. If that's your money, then you're probably entitled to get it, but I don't know that until such time as a motion is brought and all parties get a chance to answer.

(RP 2/7/14, 22:22-23:16).

In fact, at the October 11, 2013, hearing, Judge Stahnke reserved the hearing of Frances Ju's Motion for Disbursement of Surplus Funds to

October 25, 2013 (Sub No. 19 of case No. 13-2-02832-1) with Judge Gregerson. There was another entry to Sub No. 19, "Order to Disburse Funds" by Judge Daniel Stahnke. When Frances Ju wanted to pay the Superior Court to get a copy of this entry, she was told by a Court's employee that there was no written document available for this entry.

On the morning of October 25, 2013, when Frances Ju waited at Department 2, Frances Ju saw Judge Gregerson walked out of his chamber. Frances Ju said "Good morning" to him and he nodded. When it was past 9 a.m. and the door to Judge Gregerson's chamber was still locked, Frances Ju asked people around and then ran to the clerk's lobby. Frances Ju was told to go to Judge Stahnke's chamber for the hearing. Judge Stahnke granted Frances Ju's and the Bank of America's Motions for Disbursement of Surplus Funds at the hearing (Sub No. 24 and 25 of case No. 13-2-02832-1). Judge Gregerson said at almost every hearing that he told Frances Ju to hire an attorney several times. Frances Ju told him several times that she had not received the Surplus Funds. When Judge Gregerson granted Ms. McCoy's attorney's fee at the February 7, 2014, hearing, he suddenly expressed his lack of knowledge regarding Frances Ju's Surplus Fund.

Even though on October 25, 2013, Judge Stahnke granted Surplus Funds of $40,474.20 to Bank of America and $35,345.24 to Frances Ju, the Superior Court disbursed Surplus Funds to Bank of America on November 14, 2013, while the Superior Court did not disburse Surplus Funds to Frances Ju until March 31, 2014 (Sub No. 26-27 of case No. 13-

2-02832-1). The Superior Court paid the garnishment of $954.00 to Ms. McCoy and sent a check of $34,391.24 to Frances Ju.

The envelope from the County Clerk showed that it was postmarked on April 1, 2014. The earliest possible date that Frances Ju could receive the check was Wednesday, April 2, 2014, which was one-and-a-half days before the April 4, 2014, hearing. It would be highly unlikely that Frances Ju could have hired a capable and ethical attorney in such a short time frame. Because of the low balance in Frances Ju's checking account, her bank told her that most of the funds will be put on "hold" for seven business days. Frances Ju has had numerous experiences with attorneys since 1990s after her then-husband had Federal Court lawsuits. Her then-husband had difficulty in dealing with his attorneys. Frances Ju had to take over the job of communicating with his attorneys to make them work for him. The effort that Frances Ju had endeavored made her start to study the law so that she could tell the attorneys why she asked them to go the right direction. It was a very tough job. Frances Ju does not know if Judge Gregerson has ever had such an experience. Judge Gregerson's preference of dealing with attorneys, instead of merit of the case, may have been one of the factors that jeopardized his integrity of being fair and impartial towards Frances Ju.

At the June 21, 2013, Trustee's Sale, a man stopped other people from bidding by keeping saying, "Wow! Wow! Wow! Stop! Stop!" Mr. O'Neill then became the happy successful purchaser of the Trustee's Sale. Frances Ju believes that Mr. O'Neill violated RCW 61.24.135(1). Mr.

O'Neill did not send any written notice to "the previous owner or an occupant who is not a tenant" under RCW 61.24.060, either. Frances Ju challenged a wrongful foreclosure that Frances Ju became aware during and after the day of the Trustee's Sale. Facts stated in the record made Frances Ju believe that she was under "color of title" (CP 129; CP 153).

When a homeowner faces foreclosure, it generally means that the homeowner does not have the money to pay his/her mortgage. Even though RCW 61.24.080 states that homeowners of foreclosed homes must wait "not less than twenty days prior to the hearing of the motion" to receive the Surplus Funds, the Trustee's immediate filing of the Surplus Funds would have made it easier for the homeowners to get a "bridge loan" from his/her relatives. Bishop's withholding the Surplus Funds with undue delay convinced Frances Ju's relatives in Asia that Frances Ju could never get the Surplus Funds because a regular citizen can never fight with the government or large corporations in Asian culture. If Bishop had filed the deposit of Surplus Funds of $75,819.44, people would have felt safe to lend Frances Ju money for her to rent a place and to move.

On June 21, 2013, Bishop received $172,500 from Respondent, but did not think that Frances Ju was entitled to the "consideration" of the Surplus Funds to give up her home to Mr. O'Neill. Even the Federal government needs to pay "just compensation" for taking people's property under the Fifth Amendment. With $75,819.44 in the Successor Trustee's pocket for forty-eight days, Frances Ju had no financial ability to rent a

place or move to comply with the 20-day time frame that the Washington legislative set. It took an additional eleven days for the Successor Trustee to file Declaration of Mailing. (Sub No. 1 to 5 of Case No. 13-2-02832-1).

On August 20, 2013, Frances Ju's daughter moved out of the premises to a motel. Frances Ju planned to remove the case to the Federal Court on August 21, 2013. August 21, 2013, was the third business day from August 16, 2013, when the Honorable Daniel L. Stahnke denied Frances Ju's Motion to Vacate Judgment and to Stay Enforcement of Writ of Restitution. Judge Stahnke did not comply with RCW 59.12.090 to issue the questionable Writ of Restitution. The statute says that the Writ should be returnable in twenty days. Under RCW 59.12.090, Frances Ju should have had until at least August 29, 2013, to leave on her own. Mr. O'Neill chose to disregard RCW 59.12.090 and prematurely brought a deputy sheriff to arrest Frances Ju inside of her home without a warrant on the morning of August 21, 2013 (CP 129; CP 153). The arrest was in violation of the 4th and 6th Amendments to the U.S. Constitution.

The opening bid price at the June 21, 2013, Trustee's Sale was $95,798.49. Weibel Dec. ¶¶ 12-13. claimed, "Bishop caused a credit bid for Chase to be made in the amount of $95,798.49... After conclusion of the sale, Bishop determined that there was an additional cost of $16.33 it was entitled to recover from Chase for conducting the sale." These are conflicting statements from what JPMorgan Chase & Co. and Affidavit of David A. Weibel told this Court on September 6, 2013. Both JPMorgan Chase & Co. and Mr. Weibel stated in its Motion and Reply (CP 334; CP

381, 383) and his Affidavit (CP 276) that the opening bid price was $95,814.82; and that JPMorgan Chase Bank made a credit bid of $95,814.82 as the opening bid (*See also* CP 10). At the April 4, 2014, hearing, Frances Ju told Judge Gregerson, "Even people who did not take any accounting could claim and falsify that there was an additional cost of $16.33. Bishop must provide proof why this $16.33 was legitimate to serve as the principle of accounting." (RP 4/4/14, 25:2-5).

RCW 61.24.050(2)(a)(i) identifies that "an erroneous opening bid amount made by or on behalf of the foreclosing beneficiary at the trustee's sale" is "an error with the trustee foreclosure sale process".

Mr. O'Neill's violation of RCW 61.24.060 kept Frances Ju from making the challenge and declaration within 10 days following the Trustee's Sale under 61.24.050(2)(a). Mr. O'Neill's violation of RCW 61.24.135(1) made Frances Ju pursue her Chapter 19.86 RCW Consumer Protection Act claim (CP 130; CP 154).

The premises is the subject property of this litigation and since July 29, 2013, Frances Ju has asked the Superior Court to set aside the June 21, 2013, Trustee's Sale. ¶D. of the "Prayer for Relief" of Frances Ju's ATP Complaint also asks the Superior Court to order that Bishop set aside the Trustee's Sale; and that Frances Ju be entitled to selling the premises and transferring the deed and title without the Cross-defendant's signatures if the Court(s) issue(s) Order(s) to set aside the Trustee's Sale or to dismiss Mr. O'Neill's Complaint for Unlawful Detainer.

Mr. O'Neill's monetary gain from his violations of RCW 61.24.135(1) was "$109,500 minus his costs" in 9 months. Frances Ju

owed the premises for 24 years and invested money in the premises. The increase in the value of the premises for her was less than a half of Mr. O'Neill's illegal gain. Judge Gregerson's struck the January 10, 2014, hearing to prevent Chase and Bishop from being the Third Party Defendants until February 7, 2014, and his pattern of bias, prejudice, and unfairness towards Frances Ju made Frances Ju's settlement talks very hard to succeed and caused irreparable injury to Frances Ju.

On February 6, 2014, with 5 inches of snow on the ground, all the printers and Internet computers at the Downtown Library were down for hours. Only the limited-function Catalogue Computers were available for use. Frances Ju then went to Ms. McCoy's law firm seeking to talk to her regarding the Response Ms. McCoy filed and Frances Ju's draft of 3 Replies and 1 Declaration (Sub No. 124A-D).

Frances Ju waited for nearly forty minutes at the front desk, but did not have a chance to talk to Ms. McCoy. At 1:09 p.m., the receptionist told Frances Ju that Ms. McCoy was not in the office and that Ms. McCoy would not be available that day. After Frances Ju went back to the Library, it did not take long for the printers and Internet Computers to start working. Thus, Frances Ju completed the job without having to drive in heavy snow to a copy shop. Frances Ju went to the Superior Court to file the 3 Replies and 1 Declaration; and hand-delivered a copy to Ms. McCoy in heavy snow. Ms. McCoy's law firm was closed due to inclement weather. Frances Ju knocked and a woman came to unlock the door. Frances Ju asked her to sign a typed receipt that Frances Ju prepared. She

went to get Ms. McCoy. Ms. McCoy came out and signed the receipt. This shows that with their experience and observation of Judge Gregerson's pattern of unfairness and partiality, Mr. O'Neill and her attorney, Ms. McCoy, did not have any good faith to settle the case.

After Chase stated in its Reply, 'The second was that Chase was somehow bound by the terms of Ms. Ju's "settlement offer" that it had never seen, much less assented to. ATPC at pp. 3-4.' (CP 449), Frances Ju sent Chase four settlement offers, which were independent from other parties. None of the settlement offers went though. This shows that Chase's statement was only a pretext.

Ms. Bollero of Bishop even disregarded "the very basic business etiquette" that Frances Ju expected from her. On April 4, 2014, Frances Ju wanted to shake hands with her when Frances Ju said good-bye to her. Nevertheless, Ms. Bollero pretended that she did not know why Frances Ju offered her hand (CP 191). Bishop did not reach a settlement with Frances Ju after Frances Ju tried several times.

IV. SUMMARY OF ARGUMENT

This case presents several questions for determination. The violation of RCW 61.24.135(1) at the June 21, 2013, Trustee's Sale made Mr. O'Neill a happy winner of an illegal gain of "$109,500 minus his costs" in 9 months; constituted an unfair or deceptive act or practice under the consumer protection act, Chapter 19.86 RCW; revealed the lack of integrity of the Successor Trustee Bishop and the Beneficiary Chase;

jeopardized Judge Gregerson's integrity of being fair and impartial; offended public policy as it had been established by statutes and the common law; and injured Frances Ju and caused her damages.

Since the 1913 U.S. Supreme Court ruling in Interstate Cornmerce Comm'n v. Louisville & Nashville R.R., 227 U.S. 88, 57 L. Ed. 431, 33 S.Ct. 185, "A hearing should be fair and impartial, and before an unbiased tribunal" has been a vital part of Judicial Impartiality. Judge Gregerson grabbed the opportunity to please deep-pocket Chase and Bishop and quick-illegal-money Mr. O'Neill disregard of Frances Ju's constitutional right under the Due Process Clause of the Fourteenth Amendment.

The 1927 U.S. Supreme Court ruling in Tumey v. Ohio, 273 U.S. 510 has made it clear: 'The Due Process Clause incorporated the common-law rule requiring recusal when a judge has "a direct, personal, substantial, pecuniary interest" in a case.' In 1971, the U.S. Supreme Court in Mayberry v. Pennsylvania, 400 U.S. 455 noted that the objective inquiry is not whether the judge is actually biased, but whether the average judge in his position is likely to be neutral or there is an unconstitutional "potential for bias" Id. at 466.

In Withrow v. Larkin, 421 U.S. 35 (1975), the U.S. Supreme Court held that the question is whether "under a realistic appraisal of psychological tendencies and human weakness," the interest "poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented." Id. at 47.

In Caperton v. A.T. Massey Coal Co., Inc., 556 U.S. 868 (2009), Massey's chairman, CEO, and president's contribution to West Virginia Justice Benjamin's campaign fund was reviewed. The U.S. Supreme Court reiterated the precedents and held that the appearance of conflict of interest so "extreme" that Benjamin's failure to recuse himself constituted a violation of the plaintiff's Constitutional right to Due Process under the Fourteenth Amendment. "In all the circumstances of this case, due process requires recusal." Id. at 868.

Frances cited the two cases: Bain v. Metropolitan Mortgage Group, Inc., 175 Wn.2d 90, 285 P.3d 34 (2012) and Klem v. Washington Mutual Bank, 176 Wn.2d 771, 295 P.3d 1179 (2013) throughout her Oppositions to Chase's and Bishop's Motions for Summary Judgment. Chase and Bishop failed to address the unfair or deceptive act or practice in their Motions or Replies. Judge Gregerson did not care about Mr. O'Neill, Chase and Bishop's violations of Chapter 19.86 RCW. Whether Frances Ju suffered injury and damages was not a concern to Judge Gregerson. There are significant issues of material fact in dispute, and only a jury can decide which facts to believe. Judge Gregerson disregarded the statutes and court rules and unfairly granted Chase's and Bishop's Motions for Summary Judgment.

Not only were Judge Gregerson's rulings unsupported by the facts and existing case law, but they were also fundamentally unfair. Genuine

Due Process implications arose under federal law with respect to Judge Gregerson's failure to recuse himself. Frances Ju respectfully requests that this Court reverse Judge Gregerson's rulings and remand the case with specific instructions.

V. ARGUMENT

A. Standard of Review.

A trial court's decision to grant or partially grant Summary Judgment is reviewed de novo. VersusLaw, Inc. v. Stoel Rives, LLP, 127 Wn.App. 309, 111 P.3d 866 (2005), citing Kruse v. Hemp, 121 Wn.2d 715, 722, 853 P.2d 1373 (1993). Also, Szajer v. City of Los Angeles, 632 F.3d 607, 610 (9th Cir. 2011); Universal Health Servs., Inc. v. Thompson, 363 F.3d 1013, 1019 (9th Cir. 2004); Bravo v. City of Santa Maria, 665 F.3d 1076, 1083 (9th Cir. 2011); FTC v. Stefanchik, 559 F.3d 924, 927 (9th Cir. 2009); Rene v. MGM Grand Hotel, Inc., 305 F.3d 1061, 1064 (9th Cir. 2002) (en banc).

Summary judgment is appropriate if the pleadings, affidavits, depositions, and admissions on file demonstrate the absence of any genuine issues of material fact and the moving party is entitled to judgment as a matter of law. CR 56(c). The moving party bears the burden of demonstrating there is no genuine dispute as to any material fact. Green v. Am. Pharm. Co., 136 Wn.2d 87, 100, 960 P.2d 912 (1998). "A material fact is one upon which the outcome of the litigation depends, in whole or in part." Barrie v. Hosts of Am., Inc., 94 Wn.2d 640, 642, 618

P.2d 96 (1980). Only when reasonable minds could reach but one conclusion on the evidence should the court grant summary judgment. Smith v. Safeco Ins. Co., 150 Wn.2d 478, 485, 78 P.3d 1274 (2003); Morris v. McNicol, 83 Wn.2d 491, 494-95, 519 P.2d 7 (1974). In conducting this inquiry, the court must view all facts and reasonable inferences in the light most favorable to the nonmoving party. City of Lakewood v. Pierce County, 144 Wn.2d 118, 125, 30 P.3d 446 (2001). Where different competing inferences may be drawn from the evidence, the issue must be resolved by the trier of fact. Hudesman v. Foley, 73 Wn.2d 880, 889, 441 P.2d 532 (1968); Kuyper v. State Dept. of Wildlife, 79 Wn. App. 732, 739, 904 P.2d 793 (1995).

On review, the appellate court must determine, viewing the evidence in the light most favorable to the nonmoving party, whether there are any genuine issues of material fact and whether the trial court correctly applied the relevant substantive law. Olsen v. Idaho State Bd. Of Medicine, 363 F.3d 916, 922 (9th Cir. 2004), Far Out Prods., Inc. v. Oscar, 247 F.3d 986, 992 (9th Cir. 2002) (defining "genuine" and "material"). The court must not weigh the evidence or determine the truth of the matter but only determine whether there is a genuine issue for trial. Balint v. Carson City, 180 F.3d 1047, 1054 (9th Cir. 1999). Summary Judgment is not proper if material factual issues exist for trial. Simo v. Union of Needletrades, 322 F.3d 602, 610 (9th Cir. 2003).

B. Judicial Impartiality and Due Process Clause of the Fourteenth Amendment.

Judicial impartiality is a significant element of justice. A century ago, the U.S. Supreme Court already held, "A hearing should be fair and impartial, and before an unbiased tribunal. Such protections are inherent in the word 'hearing' and without them hearing procedures could be seriously infected." Interstate Cornmerce Comm'n v. Louisville & Nashville R.R., 227 U.S. 88, 57 L. Ed. 431, 33 S.Ct. 185 (1913).

'The Due Process Clause incorporated the common-law rule requiring recusal when a judge has "a direct, personal, substantial, pecuniary interest" in a case.' Caperton v. A.T. Massey, 556 U.S. 868 (2009) citing Tumey v. Ohio, 273 U.S. 510, 523. 'It is axiomatic that "[a] fair trial in a fair tribunal is a basic requirement of due process."' Caperton v. Massey at 873 citing In re Murchison, 349 U.S. 136 (1955).

"The principle of impartiality, disinterestedness, and fairness on the part of the judge is as old as the history of courts; in fact, the administration of justice through the mediation of courts is based upon this principle. It is a fundamental idea, running through and pervading the whole system of judicature, and it is the popular acknowledgment of the inviolability of this principle which gives credit, or even toleration, to decrees of judicial tribunals. Actions of courts which disregard this safeguard to litigants would more appropriately be termed the administration of injustice, and their proceedings would be as shocking to our private sense of justice as they would be injurious to the public

interest." State ex rel. Beam v. Fulwiler, 76 Wn. 2d 313, 316 (1969), citing in part Smith v. Skagit Cty., 75 Wn. 2d 715, (1969).

"If the judge discovers that some personal bias or improper consideration seems to be the actuating cause of the decision or to be an influence so difficult to dispel that there is a real possibility of undermining neutrality, the judge may think it necessary to consider withdrawing from the case." Caperton v. Massey at 880. 'The judge's own inquiry into actual bias, then, is not one that the law can easily superintend or review, though actual bias, if disclosed, no doubt would be grounds for appropriate relief. In lieu of exclusive reliance on that personal inquiry, or on appellate review of the judge's determination respecting actual bias, the Due Process Clause has been implemented by objective standards that do not require proof of actual bias. See Tumey 273 U.S. at 532; Mayberry 400 U.S., at 465-466; Lavoie[1], 475 U.S. at 825. In defining these standards the Court has asked whether, "under a realistic appraisal of psychological tendencies and human weakness," the interest "poses such a risk of actual bias or prejudgment that the practice must be forbidden if the guarantee of due process is to be adequately implemented." Withrow 421 U.S., at 47.'

'...Objective standards may also require recusal whether or not actual bias exists or can be proved. Due process "may sometimes bar trial by judges who have no actual bias and who would do their very best to

[1] Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813 (1986).

weigh the scales of justice equality between contending parties." Murchison, 349 U.S., at 136. The failure to consider objective standards requiring recusal is not consistent with the imperatives of due process.' Caperton v. Massey at 883. '[T]he Court has identified additional instances which, as an objective matter, require recusal. These are circumstances "in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." Withrow, 421 U.S., at 47.' Caperton v. Massey at 873.

The Murchison Court was careful to distinguish the circumstances and the relationship from those where the Constitution would not require recusal. It noted that the single-judge grand jury is "more a part of the accusatory process than an ordinary lay grand juror," and that "adjudication by a trial judge of a contempt committed in [a judge's] presence in open court cannot be likened to the proceedings here." Id. at 137. The judge's prior relationship with the defendant, as well as the information acquired from the prior proceeding, was of critical import.

Following Murchison the U.S. Supreme Court held in Mayberry v. Pennsylvania, 400 U.S. 455, 466 (1971), "that by reason of the Due Process Clause of the Fourteenth Amendment a defendant in criminal contempt proceedings should be given a public trial before a judge other than the one reviled by the contemnor." The court reiterated that this rule rests on the relationship between the judge and the defendant. 'The court asks not whether the judge is actually, subjectively biased, but whether the

average judge in his position is "likely" to be neutral, or whether there is an unconstitutional "potential for bias."' Caperton v. Massey at 878.

The Caperton Court states, "This problem arises in the context of judicial elections, a framework not presented in the precedents we have reviewed and discussed. Caperton contends that Blankenship's pivotal role in getting Justice Benjamin elected created a constitutionally intolerable probability of actual bias. Though not a bribe or criminal influence, Justice Benjamin would nevertheless feel a debt of gratitude to Blankenship for his extraordinary efforts to get him elected. That temptation, Caperton claims, is as strong and inherent in human nature as was the conflict the Court confronted in Tumey and Monroeville[2]..." Ibid.

"[T]he [judge's] financial stake need not be as direct or positive as it appeared to be in Tumey." Gibson v. Berryhill, 411 U.S. 564, 579 (1973). The Court in Aetna Life Ins. Co. v. Lavoie further clarified the reach of the Due Process Clause regarding a judge's financial interest in a case. The Alabama justice's deciding vote, the U.S. Supreme Court surmised, "undoubtedly 'raised the stakes'" for the insurance defendant in the justice's suit. 475 U.S., at 823-824. The Court stressed that it was "not required to decide whether in fact [the justice] was influenced." Id., at 825. The proper constitutional inquiry is "whether sitting on the case then before the Supreme Court of Alabama ' "would offer a possible temptation to the average... judge to ... lead him not to hold the balance

[2] Ward v. Monroeville, 409 U.S. 57 (1972).

nice, clear and true." '" Ibid. (quoting Monroeville at 60, in turn quoting Tumey at 532). The Court underscored that "what degree or kind of interest is sufficient to disqualify a judge from sitting 'cannot be defined with precision.' " 475 U.S., at 822 (quoting Murchison, 349 U.S., at 136).

Caperton at 884 holds, 'It is true that extreme cases often test the bounds of established legal principles, and sometimes no administrable standard may be available to address the perceived wrong. But it is also true that extreme cases are more likely to cross constitutional limits, requiring this Court's intervention and formulation of objective standards. This is particularly true when due process is violated. See, e.g., County of Sacramento v. Lewis, 523 U.S. 833, 846-847 (1998)... "objective considerations, including history and precedent, are the controlling principle" of this due process standard.' '...Yet the Court articulated an objective standard to protect the parties' basic right to a fair trial in a fair tribunal.'

"We conclude that there is a serious risk of actual bias — based on objective and reasonable perceptions — when a person with a personal stake in a particular case had a significant and disproportionate influence in placing the judge on the case by raising funds or directing the judge's election campaign when the case was pending or imminent." Caperton v. Massey at 881. "...there is no allegation of a *quid pro quo* agreement..." Id. at 883.

On September 5, 2013, when Frances Ju was waiting at Department 2 for her Ex Parte Motion for Indigency (Sub No. 42), Judge

Gregerson unusually walked past her and looked at her at least twice. The next day, September 6, 2013, JPMorgan Chase & Co. mailed its Motion for Summary Judgment (CP 331-343) and Bishop mailed its supporting Affidavit (CP 274-330). Both identified Judge Gregerson as the presiding judge to hear the Motion while Judge Stahnke still presided over this case until the October 25, 2013, hearing (Sub No. 23 of case No. 13-2-02832-1). Judge Gregerson granted the Motion for Summary Judgment on October 18, 2013 (CP 387-389). Did Judge Gregerson timely solicit JPMorgan Chase & Co. and Bishop that he would take care of them and grant the Motion for Summary Judgment? Did JPMorgan Chase & Co. and/or Bishop ask Judge Gregerson to take over this case to rule in their favor?

On October 1, 2013, pursuant to Chapter 4.12 RCW, Frances Ju filed her Motion for Change of Venue (Sub No. 59) after Mr. O'Neill filed his "Motion to set for Trial, Review Status of Personal Property, Etc." (Sub No. 56) on September 25, 2013. Mr. O'Neill did not file a Response. It was JPMorgan Chase & Co. who filed "Third-Party Defendant's Opposition to Defendant's Motion for Change of Venue." JPMorgan Chase & Co. falsely claimed, "Ms. Ju waived any objection to venue when she did not include it in her Answer." (Sub No. 71, P.2). Frances Ju filed her Reply on October 16, 2013, stating, 'This is not true. Frances Ju stated eleven Affirmative Defenses. The first one was "Jurisdiction and venue."' (CP 257; Sub No. 72, P.4). At the October 18, 2013, hearing, Judge

Gregerson did not want to lose his or Judge Stahnke's grasp of this case and denied Frances Ju's Motion (Sub No. 18).

At the February 7, 2014, hearing, Judge Gregerson scolded Frances Ju unfairly and ruled against Frances Ju on everything excepting that he granted Frances Ju's Motion for Leave to Amend Third Party Complaint so that he could continue taking care of Chase and Bishop.

Based on objective considerations, reasonable perceptions, and the Due Process standard, Frances Ju respectfully requests that this Court find that there has been serious risk of actual bias in Judge Gregerson's presiding over this case.

C. Chapter 19.86 RCW, Chapter 61.24 RCW and Case Law did not Provide Judge Gregerson with Legal Basis or Authority to Grant Chase's and Bishop's Motions.

When Chase filed its Motion on February 24, 2014, it stated (CP 9), "Chase's Motion... is based upon the Affidavit of David A. Weibel... previously filed in support of JPMC's Motion for Summary Judgment..." Weibel filed the Affidavit on September 9, 2013 (CP 274-330). In view of this Judicial Economy principle, Frances Ju stated in her Opposition (CP 155), "Third Party Plaintiff relies on the Declaration of Frances Du Ju, and the pleadings and documents filed in this case."

Chase and Bishop claimed that on January 18, 2013, Bishop was appointed by Chase as Successor Trustee; and that the appointment was recorded at Clark County on February 5, 2013; and that Bishop also caused the Notice of Trustee's Sale to be recorded on February 14, 2013

(CP 9; CP 24; CP 35, ¶¶6, 9). The Notice stated clearly, "... Charter Title Corporation, as Trustee, to secure an obligation in favor or JPMorgan Chase Bank..." Bishop did not immediately identify itself as the Successor Trustee following this statement (CP 61; CP 133; CP 151). This shows that Chase and Bishop's statements were self-contradictory. If the January 13, 2013, appointment and the February 5, 2013, recording have been true, Chase and Bishop would have not claimed that Charter Title Corporation was still the Trustee without immediately identifying Bishop's being the Successor Trustee.

After the June 21, 2013, Trustee's Sale, Frances Ju checked the Secretary of State of Washington's website and found out that Charter Title Corporation had been inactive since March 31, 2001. She was not informed by JPMorgan Chase Bank or any other trustee or company about the filing of Surplus Funds with the Court. Frances Ju believed that the Trustee might have resigned and was replaced by the beneficiary. RCW 61.24.010(2) states, "The trustee may resign at its own election or be replaced by the beneficiary." (CP 133; CP 152).

MS. JU: ... And she said that Chase appointed Bishop as the successor trustee on January 18th and they recorded on February 5th.
Well, the Clark County Auditor's office record was August 23rd and Bishop paid an emergency fee. And Chase Bank and the Bishop provided hundreds of exhibits, but there was no evidence that showed that the recording of the notice of resignation of Charter Title around that period of time. The Clark County Record showed that Bishop recorded the appointment to emergency on August 23rd. Well, if a purported trustee has not been appointed - -

THE COURT: Ms. Ju - - Ms. Ju. ...

(RP 4/4/14, 28:23-29:9).

61.24.010(2) states, "...The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded..." Chase and Bishop provided hundreds of pages of exhibits. However, there was no Charter Title Corporation's "recording of the notice of resignation" during that time frame.

Exhibit C (CP 46) of Weibel's Declaration shows that Bishop paid "an additional fee as provided in RCW 36.18.010" for "an emergency nonstandard recording" of "Appointment of Successor Trustee" with Clark County Auditor's Office on August 23, 2013, instead of February 5, 2013, that Chase and Bishop claimed. Frances Ju stated in her Oppositions, 'It is very strange that Bishop waited seven months to ask the Clark County Deputy Auditor to certify on its being appointed as the Successor Trustee through "an emergency nonstandard recording" on August 23, 2013. In January 2013, Frances Ju did not receive a copy of the "Appointment of Successor Trustee."' (CP 133; CP 157).

Frances Ju reiterated her statement in her Opposition, '... after JPMorgan Chase & Co. pointed out that Bishop, White, Marshall & Weibel was appointed as Successor Trustee. It took Frances Ju lots of time to find the tiny print of "Successor Trustee" which was covered by Mr. Bishop's Signature.' (CP 347-348)

Mr. Bishop's April 1, 2013, letter to Frances Ju (CP 100) did not bear Bishop's new identity of "Successor Trustee". This also raises a

question why Mr. Bishop still wanted to show Frances Ju that he was the attorney for JPMorgan Chase Bank at the time and that he was "a debt collector" for JPMorgan Chase Bank. Whether Bishop informed Frances Ju in January 2013 that Bishop became the Successor Trustee is an issue as to material fact for the jury to decide (CP 134; CP 158).

The above helps prove that it was likely that Chase and Bishop conducted false notarization of documents. These should be the "genuine issues as to material fact remained at the trial."

D. Judge Gregerson's Granting of Motions of Summary Judgment was in violation of the Rules of Evidence.

In the following, Frances Ju shows this Court why Judge Gregerson should have allowed Frances Ju's adult daughter to file her Affidavit after the April 4, 2014, hearing.

ER 1101 regards "Applicability of Rules." ER 1101(a) states, "Courts Generally. Except as otherwise provided in section (c), these rules apply to all actions and proceedings in the courts of the state of Washington..."

ER 103: Rulings on Evidence.

ER 103(a) regards "Effect of Erroneous Ruling." It states, "Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and ... (2) Offer of Proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

ER 601: General Rule of Competency.

ER 601 states, "Every person is competent to be a witness except as otherwise provided by statute or by court rule."

ER 901(b)(1).

ER 901(b)(1) states, " Testimony of Witness With Knowledge. Testimony that a matter is what it is claimed to be."

At the April 4, 2014, hearing, Judge Gregerson denied Frances Ju's request that she can ask her daughter to write an Affidavit. Bishop did not challenge the issue until its Reply, which was filed four days before the hearing. Bishop's challenge was not stated specifically but one of the eight facts that Bishop stated. (Sub No. 158, P.5). The parties did not go through the Discovery process and CR 26 requires thirty days for the other party to respond.

MS. JU: ... Pursuant to CR 8, the principle of a complaint only requires that a complaint contain a short and a plain statement of the claim showing that the pleader is entitled to relief... I copy the language from RCW 61.24.135(1). It is an unfair or deceptive act of practice under the Consumer Protection Act, Chapter 19.86 of RCW.

The language in RCW 61.24.135(2) is different. People can tell that it was a violation of RCW 61.24.135(1) by simply taking a quick look at the statement. Chase summary judgment - - they emphasize the violation of RCW 61.24.135(2). So this Court should deny the motion.

THE COURT: Let me ask you this, which element of 61.24.135 have you shown substantial evidence that either of these defendants may have committed?

MS. JU: Well, at the June 21st, 2013, trustee sale a guy told other people stop to bid. He said, whoa, whoa, whoa, stop, stop. And then Mr. - - because other people, they stopped, because they knew about the law. And Mr. O'Neill then bid 172.5 and then he got - -

THE COURT: Do you have an affidavit from somebody saying that there was misconduct in the conducting of the trustee sale? Whose - - what evidence is in the court file? What affidavit tells me that?

MS. JU: Not yet, but my daughter was there. And other people also saw

this.

THE COURT: But do you understand that that's not evidence that the Court has?

MS. JU: Yes. If the Court requires - - I can ask my daughter to write an affidavit. But the effect is this - - well, the auctioneer should have reported to JP Morgan - - to Bishop and Bishop just did nothing. Because they should have voided the trustee sale but they did nothing. (RP 4/4/14, 17:1-18:9).

Pursuant to ER 103(a)(2), ER 601, and ER 901(b)(1), Judge Gregerson should have allowed Frances Ju to tell her daughter to write an Affidavit. It was apparent that the substance of the evidence was made known to Judge Gregerson by Frances Ju's offer and was apparent from the context within which questions were asked. Judge Gregerson's excluding the evidence may have played an important role in his granting of Bishop's and Chase's Motions for Summary Judgment. His decision definitely and significantly affected Frances Ju's substantial right.

Judge Gregerson disregarded ER 201(b) and took Bishop's judicial notice regarding that the appointment of Bishop as Successor Trustee was recorded on February 5, 2013 (CP 175) under ER 201(c) showed his bias and prejudice. As stated in ¶ V.C. supra, Exhibit C (CP 46) of Weibel's Declaration shows that Bishop paid "an additional fee as provided in RCW 36.18.010" for "an emergency nonstandard recording" of "Appointment of Successor Trustee" with Clark County Auditor's Office on August 23, 2013, instead of February 5, 2013. The County Auditor's Office is a "source whose accuracy cannot reasonably be questioned." In addition, in January 2013, Frances Ju did not receive a copy of the "Appointment of Successor Trustee."' (CP 133; CP 157).

The two cases: Bain v. Metropolitan Mortgage Group, Inc., 175 Wn.2d 90, 285 P.3d 34 (2012) and Klem v. Washington Mutual Bank, 176 Wn.2d 771, 295 P.3d 1179 (2013) made Frances Ju mention the possible false notarization of documents by the trustee. Bain involved a pre-sale CPA claim, and the claim arising from false notarization of documents by the trustee necessarily accrues before a sale. Klem, 17 6 Wn.2d at 794-95. Whether the "Appointment of Successor Trustee" had really happened on January 18, 2013, would be an issue as to material fact for the jury to decide (CP 133: CP 157). Judge Gregerson should have not granted Bishop's and Chase's Motions for Summary Judgment.

E. Double Standard, Bias, and Prejudice May Have Played a Vital Role in Judge Gregerson's Granting Chase's and Bishop's Motions Against Frances Ju.

Caperton v. Massey at 885 states, 'Courts proved quite capable of applying the standards to less extreme situations. One must also take into account the judicial reforms the States have implemented to eliminate even the appearance of partiality. Almost every State... has adopted the American Bar Association's objective standard: "A judge shall avoid impropriety and the appearance of impropriety." ABA Annotated Model Code of Judicial Conduct, Canon 2 (2004)... The ABA Model Code's test for appearance of impropriety is "whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired." Canon 2A, Commentary.' In the Washington State Code of Judicial Conduct (2011), Preamble (2), Canon 1, and Rule 1.2 Comment also address this standard.

The Washington State Code of Judicial Conduct (2011) interprets "Invidious discrimination" as: a classification which is arbitrary, irrational, and not reasonably related to a legitimate purpose. Differing treatment of individuals based upon race, sex, gender, religion, national origin, ethnicity, sexual orientation, age, or other classification protected by law, are situations where invidious discrimination may exist. Frances Ju's not being Caucasian and her national origin of Chinese may have kept Judge Gregerson from being fair and impartial.

Between September 25, 2013, and February 4, 2014 (Sub No. 57 and 123), Mr. O'Neill was a Pro se. At the October 18, 2013, hearing (Sub No. 73; RP 10/18/13), Judge Gregerson "refers Mr. O'Neill as to what RCW's may pertain to the property removal and counsel." (10/18/13 Minute Order).

> THE COURT: ... Unfortunately, I don't know that I have the authority to enter the kind of order that you're talking about, Mr. O'Neill, there are statutes under 59.12 and 59.18 both which deal with what happens with property left behind when property has changed possession pursuant to a writ of restitution.
>
> I can't give you legal advice, but I would simply encourage you to look at the provisions of 59.12 and 59.18 or perhaps get a qualified attorney in that area who can give you some guidance, but there is some guidance contained within both of those statutory chapters. (RP 10/18/13, 4:24-5:9).

This shows that Judge Gregerson's bias and prejudice towards Frances Ju were not only because Frances Ju was not represented by an attorney. When Judge Gregerson said to Frances Ju that he could not give her legal advice at the hearing, he never "referred Frances Ju as to what RCW's may pertain to (the issue) and counsel." Mr. O'Neill is Caucasian

and is not Chinese. Race and national origin discrimination against Frances Ju may have played important roles in Judge Gregerson's biased and unfair decisions when he presided over this case.

Rule 2.11(A) of the Washington State Code of Judicial Conduct states, "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

> (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.
> ... ...
> (6) The judge: (a) served as a lawyer in the matter in controversy...

Even though Judge Gregerson knew that he cannot and would not be fair and impartial to Frances Ju, he jumped into this case at the first opportunity on September 5 or 6, 2013. His goal is not only to protect the lawbreaker Mr. O'Neill, but also to protect other Frances Ju's opposing parties, Chase and Bishop. Judicial integrity was not a concern to Judge Gregerson at all.

"The question of disqualification focuses on whether an objective assessment of the judge's conduct produces a reasonable question about impartiality, not on the judge's subjective perception of the ability to act fairly." Liteky v. United States, 510 U.S. 540, 558 (1994). These codes of conduct and case law serve to maintain the integrity of the judiciary and the rule of law.

"Courts, in our system, elaborate principles of law in the course of resolving disputes. The power and the prerogative of a court to perform this function rest, in the end, upon the respect accorded to its judgments. The citizen's respect for judgments depends in turn upon the issuing court's absolute probity. Judicial integrity is, in consequence, a state interest of the highest order." Republican Party of Minn. V. White, 536 U.S. 765, 793 (2002).

It is for this reason that States may choose to "adopt recusal standards more rigorous than due process requires." Caperton v. Massey at 886 citing Republican Party of Minn. V. White at 794; see also Bracy v. Gramley, 520 U.S. 899, 904 (1997) (distinguishing the "constitutional floor" from the ceiling set "by common law, statute, or the professional standards of the bench and bar").

At the February 7, 2014, hearing, Judge Gregerson made his bias and prejudice obvious. The Court's record shows, "Defendant Ju's Motion to for Leave to Amend her Complaint; Granted as to adding additional parties, so long as no further claims are brought against Mr. O'Neill." (Sub. No. 125 Minute Order.)

When Judge Gregerson wants to protect Mr. O'Neill, his unfair granting of Chase's and Bishop's Motions for Summary Judgment made Frances Ju the sole victim in this case. Judge Gregerson did not care about the statutes or court rules. His bias and prejudice have arisen to violation of Frances Ju's Due Process right under the Fourteenth Amendment of the U.S. Constitution.

F. Judge Gregerson did not ask Bishop what evidence Bishop had in Complying with RCW 61.24.040(3).

Frances Ju's Oppositions stated, "Similarly, if a purported trustee has not been appointed in accordance with the DTA, RCW 61.24.010, it is deceptive for that entity to represent to the homeowner and the public that it is the trustee and to schedule a trustee's sale by posting and recording a Notice of Trustee's Sale and advertising the sale in a local newspaper. See RCW 61.24.040(1) & (3). Such representations have the capacity to mislead or deceive the "reasonable" or "ordinary" consumer, (See Panag, 166 Wn.2d at 50 (noting that "[a]n ordinary consumer would not understand the meaning of a 'subrogation claim"')) and their capacity for repetition makes them capable of deceiving a substantial portion of the public. Bain, 175 Wn.2d at 51 (holding element presumptively met because MERS involved in numerous deeds of trust). Bishop or Weibel did not include any evidence that Bishop published the Trustee's Sale in the newspaper." (CP 138-139; CP 164).

ATP Complaint ¶¶ 3.6, 3.7, 3.8 and 4.5 include the concern of the mistakenly low opening bid price; and the erroneous, unfair or deceptive sale process resulted in or contributed to a grossly inadequate sale price. This made the issue whether Bishop "advertis(ed) the sale in a local newspaper" non-ignorable. Declaration of David A. Weibel consisted of eighty-eight pages (CP 33-120). However, Mr. Weibel did not include any evidence that his law firm published the Trustee's Sale in the newspaper.

RCW 61.24.040(3) states, "...the trustee shall cause a copy of the notice of sale... to be published in a legal newspaper in each county in

which the property or any part thereof is situated, once on or between the thirty-fifth and twenty-eighth day before the date of sale, and once on or between the fourteenth and seventh day before the date of sale." Frances Ju should have been entitled to Bishop's providing evidence of these two newspaper advertisements. It is also an issue for the jury to decide if the lack of this requirement of statute has constituted to a low sale price of $172,500 at the June 21, 2013, Trustee's Sale; while Mr. O'Neill sold the premises at $282,000 on April 1, 2014. "[A] grossly inadequate purchase price together with circumstances of other unfair procedures may provide equitable grounds to set aside a sale." Albice v. Premier Mortgage Servs. of Washington, Inc., 157 Wn.App. 932-33, 239 P.3d 1148 (2010).'

G. Frances Ju Presented a Page of Klem v. WaMu at the April 4, 2014, Hearing to Answer Chase's and Bishop's Contention Regarding False Notarization

At the April 4, 2014, hearing, Frances Ju presented Page 9 of Klem v. Washington Mutual Bank, 176 Wn.2d 771, 295 P.3d 1179 (2013) to answer Chase's and Bishop's contention regarding false notarization, in addition to her Oppositions (CP 127-143; CP 150-168) filed with the Superior Court.

MS. JU: ... summary judgment requires that the moving parties have the initial burden of showing there is no dispute as to any issue of material fact. Either Chase Bank or Bishop didn't meet this standard. I'm presenting a copy of page nine of Supreme Court's ruling on Klem v. Washington Mutual Bank... ... ...

I cited numerous rulings from this case including but not limited to page nine. I highlighted parts of page nine. Page nine answers both third-party defendant's contention why this case must go to trial for the jury to decide the factual issue of whether the false notarization was an unfair or deceptive act of practice under the CPA, and was a cause of Plaintiff's damages.

> The Supreme Court 2013 ruling on Klem v. WaMu was, of course, a question for the jury.
>
> So as the now moving party, I'm entitled to all facts and the inferences drawn in my favor. There are genuine issues as to material facts in my amended third-party complaint for the jury to decide. And that the statements over (*sic,* "offered") by Chase Bank and the Bishop pretext."
>
> (RP 4/4/14, 15:20-16:16).

¶43 in Page 9 states, "...In Werner, California notaries affixed their jurats to forged documents conveying real property situated in Washington. An issue before us in Werner was whether Washington had jurisdiction over the California notaries in a civil suit to hold them accountable for their actions. We held Washington did have jurisdiction and that a notary may be personally liable to those injured..."

¶44 states, "We hold that the act of false dating by a notary employee of the trustee in a nonjudicial foreclosure is an unfair or deceptive act or practice and satisfies the first three elements under the Washington CPA."

¶45 states, "The trustee argues as a matter of law that the falsely notarized documents did not cause harm. The trustee is wrong; a false notarization is a crime and undermines the integrity of our institutions upon which all must rely upon the faithful fulfillment of the notary's oath. There remains, however, the factual issue of whether the false notarization was a cause of plaintiff's damages. That is, of course, a question for the jury. Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp., 122 Wash.2d 299, 314, 858 P.2d 1054 (1993) (citing Ayers v. Johnson &

Johnson Baby Prods. Co., 117 Wash.2d 747, 753-56, 818 P.2d 1337 (1991))..."

At the April 4, 2014, hearing, Frances Ju also provided a copy of Bishop's envelope, which showed that the Post office issued "2nd Notice" on September 25, 2013 (CP 347). The P. O. Box that Frances Ju rents from the Main Post Office was far away from where Frances Ju lives. For all Certified Mails, Frances Ju has to claim them at the counter during business hours. Monday, September 30, 2013, was the earliest possible date that Frances Ju could claim the Certified Mails (CP 131).

MR. SIMPSON: I'm going to object to the entrance of any additional evidence.
MS. JU: - - that this is a copy of. This exhibit shows that the post office gave a notice - - second notice on September 25th.
THE COURT: Ms. Ju - - Ms. Ju hold on. Mr. Simpson has objected to this being introduced. You have to understand this is not a trial, this is summary judgment hearing and there's a court rule that says that you have 28 days advance notice of this motion and then you have to file a response no less than 11 days before the hearing. And I can't just take documents on the morning of the hearing.
MS. JU: No. This is because Bishop challenged in reply and in her arguments - - not from Chase. This is from Bishop's reply. Even thou I ask this Court to strike the reply. I think I better respond to this.
THE COURT: The gist of it is, ma'am, we've been going quite a long time, I'm very familiar with this case and I want to give you an opportunity to make your argument but by the same token - -
MS. JU: Okay.
THE COURT: - - I can't have you offering evidence here on the morning of the hearing on summary judgment. It's just not procedurally proper. I'm not going allow it.
(RP 4/4/14, 23:20-24:18).

The "1st NOTICE" column on the envelope was blank. The Post Office did not have a record if and when it sent the certified mail to Frances Ju.

Ms. Bollero also told Judge Gregerson, "...I am aware, from other litigation, having tried to serve documents on a PO box, personally the US mail service will not accept them..." (RP 4/4/14, 26:20-22). This is not true. The U.S. Postal Service (USPS) in Vancouver, Washington accepts envelopes and packages from private carriers if the PO Box holder has authorized the USPS to do it and if the sender has addressed the envelope in the correct way.

H. Chase and Bishop Procedurally Leaped Directly to Entry of Judgment Dismissing all Claims Against them and Dismissing them as Parties.

A grant of a motion for judgment as a matter of law is reviewed de novo. See Louis Vuitton Malletier, S.A. v. Akanoc Solutions, Inc., 658 F.3d 936, 941 (9th Cir. 2011); Martin v. California Dep't of Veterans Affairs, 560 F.3d 1042, 1046 (9th Cir. 2009); Torres v. City of Los Angeles, 548 F.3d 1197, 1205 (9th Cir. 2008); M2 Software, Inc. v. Madacy Entm't Corp., 421 F.3d 1073, 1086 (9th Cir. 2005); City Solutions, Inc. v. Clear Channel Comms. Inc., 365 F. 3d 835, 839 (9th Cir. 2004).

In reviewing a judgment as a matter of law, the evidence must be viewed in the light most favorable to the nonmoving party, and all reasonable inferences must be drawn in favor of that party. See Reeves v. Sanderson Plumbing Prods., Inc., 530 U.S. 133, 149-50 (2000); Torres, 548 F.3d at 1205-06; M2 Software, Inc., 337 F.3d at 1086; City Solutions, 365 F.3d at 839. If conflicting inferences may be drawn from the facts,

the case must go to the jury. Torres, 548 F.3d at 1206; Howard v. Everex Sys., Inc., 228 F.3d 1057, 1060 (9th Cir. 2000); LaLonde v. County of Riverside, 204 F.3d 947, 959 (9th Cir. 2000).

Frances Ju stated in her Responses (CP 189-199; CP 204-214) that Chase and Bishop's Motions for partial final judgment should have been raised as a Motion for Summary Judgment under CR 56, and Frances Ju must "be given reasonable opportunity to present all material made pertinent to such a motion by rule 56," including the opportunity to fully respond to a CR 56 motion under the 28-day motion calendar required by CR 56(c). CR 12(c). Chase's and Bishop's Motions are actually a dispositive motion in disguise.

In Chase's and Bishop's Motions, neither addressed Frances Ju's request for declaratory and other relief. Thus, there are still live claims yet to be adjudicated. Dismissal of Frances Ju's remaining claims is not supported in fact or law, and entry of final judgment is not appropriate where viable claims remain. Frances Ju cited CR 54(b) to show that entry of final judgment as to fewer than all the claims in an action is seldom warranted.

Under Diversified Indus. Dev. Corp. v. Ripley, 82 Wn.2d 811, 814-15, 514 P.2d 137, 139 (1973), Frances Ju's request for declaratory and other relief is justiciable. First, there are "actual, present and existing disputes." Secondly, the parties have genuine and opposing interests. Third, the interests in this matter are direct and substantial. As a minimum, there should have not been a violation of RCW 61.24.135(1) on

the day of the Trustee's Sale to cause Frances Ju monetary damages and emotional distress. Chase had plenty of time to set aside the Trustee's Sale before Mr. O'Neill sold the premises at $282,000 on April 1, 2014, while he only paid $172,500 at the June 21, 2013, Trustee's Sale. Chase failed to do so.

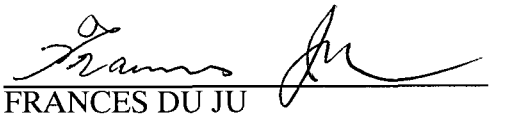
Chase and Bishop are not entitled to judgment as a matter of law under CR 54 and Chapter 7.24 RCW. Judge Gregerson should have not granted the Motions.

VI. CONCLUSION

Based upon the forgoing, Frances Ju respectfully requests that this Court review and reverse Judge Gregerson's rulings and remand the case with specific instructions.

DATED this 12th day of September, 2014.

Respectfully Submitted,



FRANCES DU JU
Third Party Plaintiff and Appellant pro se

CERTIFICATE OF SERVICE BY MAILING

I hereby certify under penalty of perjury of the laws of the State of Washington that on **September 12, 2014,** I served the foregoing on the following named persons:

(a) by e-mail and First Class Mail:

Robert J. Bocko, Esq., Herbert H. Ray, Esq. and Arthur Simpson, Esq.
Keesal, Young & Logan
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Landerholm
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(b) by First Class International Mail, postage prepaid:

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FRANCES DU JU, pro se