

FILED
5-9-16

Court of Appeals
Division I
State of Washington

No. 73124-6-1

THE COURT OF APPEALS, DIVISION I
State of Washington

WESLEY SCHLEPP,

Appellant

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS
TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-
AR4, Its successors and/or assigns,

Respondent.

RESPONDENT'S BRIEF

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I. INTRODUCTION:

Respondent DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AR4 (“Deutsche Bank” or “Respondent”) foreclosed on the real property located at 2804 E. Lake Sammamish Pkwy NE., Sammamish, WA 98074 (the “Property”) on December 13, 2013. On April 14, 2015, Deutsche Bank filed a Complaint for Unlawful Detainer of the Property, seeking a judgment and writ of restitution, which were later issued by the Court.

On August 14, 2014, Appellant filed a Motion For Order to Show Cause to Vacate the Writ of Restitution. This motion was not heard because on September 4, 2014, Appellant filed a Notice of Bankruptcy Filing and Automatic Stay, reporting that he had filed a Chapter 13 Bankruptcy Case on August 4, 2014, Case No. 14-158690TWD.

In the Bankruptcy Case and related Adversary Proceeding, Appellant prosecuted his case for Wrongful Foreclosure and related claims against Deutsche Bank in Adversary Case No. 14-01327 (the “Adversary Proceeding”). Request For Judicial Notice (“RJN”), Ex. A. thereto. Deutsche Bank obtained Relief From the Bankruptcy Automatic Stay on January 7, 2015 and moved for the reissuance of a Writ of Restitution. On January 20, 2016, Appellant filed another Motion to Void the Writ of Restitution. Oral argument on Appellant’s Motion to Void the Writ of Restitution was heard by the Court and denied on February 13, 2015. It is the denial of Appellant’s Motion to Void the Writ of Restitution that is

now on appeal.

II. RESTATEMENT OF THE ISSUES

1. Is Denial of Appellant's Motion to Void Writ of Restitution proper when Appellant presented and continues to present no legal basis to support Appellant's position that Deutsche Bank was required to provide advance notice to Appellant before having a Writ of Restitution reissued after obtaining judgment, relief from stay in the Bankruptcy Case, and dismissal of Appellant's Bankruptcy Adversary Proceeding against Deutsche Bank?
2. Did the Court error in issuing a Writ of Restitution without issuing and serving an Order to Show Cause for Writ of Restitution?

III. RESTATEMENT OF THE CASE

Respondent DEUTSCHE BANK foreclosed on the Property on December 13, 2013, and the Trustee's Deed Upon Sale was recorded with the King County auditor on January 2, 2014, under recording number 20140102000548. CP 5-7. Pursuant to RCW 61.24.060, DEUTSCHE BANK was entitled to possession of the Property on the 20th day following the foreclosure sale. As such, DEUTSCHE BANK was entitled to possession of the Property on January 2, 2014. Because Appellant did not vacate within the required timeframe, DEUTSCHE BANK availed itself of the unlawful detainer remedies available pursuant to RCW 59.12.

Specifically, DEUTSCHE BANK served Appellant with a Notice to Vacate on January 19, 2014. CP 9-12. On March 4, 2014, the Unlawful Detainer summons and complaint was substitute served on

Appellant. CP 16. Pursuant to RCW 59.12.040, the Summons and Complaint was validly served by leaving a copy with a person of suitable age at the premises, and also serving by first class mail. CP 16. Thereafter, Deutsche Bank filed a Complaint for Unlawful Detainer of the Property on April 14, 2016. CP 1-15. Deutsche Bank also sought a Default Judgment and Writ of Restitution. CP 19-37. An Order of Default was issued on April 15, 2014. CP 38-39. A non-monetary judgment finding that Appellant was unlawfully detaining the Property past the 20 day deadline was also issued. CP 40-43. Finally, an Order For Writ of Restitution was issued. CP 44-45.

On August 12, 2014, Appellant filed a Motion For Order to Show Cause to Vacate the Writ of Restitution served on him by the King County Sheriff on July 30, 2014. CP 55-58. This motion was never heard, because on September 4, 2014, Appellant filed a Notice of Bankruptcy Filing and Automatic Stay, reporting that he had filed a Chapter 13 Bankruptcy Case on August 4, 2014, Case No. 14-158690TWD. CP 59-63. The initial writ of restitution was never executed by the Sheriff due to the bankruptcy and the writ's expiration. CP 64. Appellant's Bankruptcy Case was converted to a Chapter 7 Bankruptcy. CP 79-80.

Appellant chose to litigate all of his claims against Deutsche Bank in Adversary Proceeding No. No. 14-01327, filed in the Bankruptcy Court for the Western District of Washington (the "Adversary Proceeding"). RJN, Ex. A. Complaining of the unlawful detainer action and writ therein, Appellant also brought claims against Deutsche Bank for wrongful

foreclosure; civil RICO violation; civil conspiracy; violation of FDICPA; declaratory relief; and quiet title. RJN, Ex. A. Deutsche Bank moved for dismissal of the Adversary Proceeding, and on October 23, 2014, the Bankruptcy Court dismissed Appellant's Adversary Proceeding against Deutsche Bank, with prejudice, finding in pertinent part that "all the claims in this adversary proceeding are property of the Chapter 7 bankruptcy estate. As such, the Plaintiff/Debtor lacks standing." RJN, Ex. B.

Deutsche Bank also moved for and obtained Relief From Stay in the Bankruptcy Case on January 7, 2015, allowing it to proceed with the unlawful detainer action. CP 79-80. After obtaining relief from the Bankruptcy Stay, Deutsche Bank moved for the reissuance of the Writ of Restitution on January 7, 2015. CP 75-76. The Writ of Restitution was reissued on January 20, 2015, well over 2 years after the foreclose sale. CP 98-100.

By this time, more than four months after initially claiming the Writ of Restitution should be Voided, and after dismissal of Appellant's Adversary Proceeding against Deutsche Bank in the Bankruptcy Case, Appellant was obviously well aware of the unlawful detainer proceeding, and chose to challenge it in the Bankruptcy Court. Nevertheless, on February 13, 2015, Appellate again filed a motion to Void the Writ of Restitution. CP 89-92. Appellant complained that he was not served with the Motion to Reissue the Writ, even though the Sheriff had posted the Writ of Restitution on the Property. CP 97. In arguing that he was

entitled to notice of the issuance of the Writ, Appellant cited as his sole authority Rule 52(d) of the Federal Rules of Criminal Procedure. CP 90-92. On February 13, 2015, the Trial Court heard Appellant's Motion to Vacate the Writ of Restitution and denied such motion. CP 85. Appellant appeals from this denial.

III. ARGUMENT

A. Standards of Review

A challenge to the adequacy of unlawful detainer notice presents a mixed question of law and fact, which is reviewed de novo. Hall v. Feigenbaum, 178 Wash. App. 811, 818, 319 P.3d 61, 64, review denied, 180 Wash. 2d 1018, 327 P.3d 54 (2014).

B. There is No Requirement to Provide Notice Before The Issuance of a Writ of Restitution

The deed of trust act, chapter 61.24 RCW, provides that the purchaser at a trustee's sale is entitled to possession on the twentieth day following the sale and shall also have a right to the summary proceedings to obtain possession of real property provided in RCW 59.12 RCW - the unlawful detainer act. Excelsior Mortgage Equity Fund II, LLC v. Schroeder, 171 Wash. App. 333, 339-40, 287 P.3d 21, 24 (2012). An unlawful detainer action brought under RCW 59.12.030 is a summary proceeding designed to enable the recovery of possession of property. Hall v. Feigenbaum, 178 Wash. App. 811, 818, 319 P.3d 61, 64, review

denied, 180 Wash. 2d 1018, 327 P.3d 54 (2014). The action is a narrow one, limited to the question of possession and related issues such as restitution of the premises. Id.

Once the period in the notice to vacate passes, Appellant was in unlawful detainer of the Property. At the commencement of the action or at any time while it is pending, the moving party may obtain possession under a writ of restitution, which may, according to the statute, be issued ex parte. Pursuant to RCW 59.12.090:

The plaintiff at the time of commencing an action of forcible entry or detainer or unlawful detainer, or at any time afterwards, may apply to the judge of the court in which the action is pending for a writ of restitution restoring to the plaintiff the property in the complaint described, and the judge shall order a writ of restitution to issue. The writ shall be issued by the clerk of the superior court in which the action is pending, and be returnable in twenty days after its date...

RCW 59.12.090.

Appellant filed a Motion to Vacate Writ and argued that he was entitled to advance notice of its issuance and/or a show cause hearing on the issue, but the statute is clear that advance notice to Appellant is not required when a writ of restitution is issued, or when it is reissued. The ex parte nature of issuance of the writ of restitution in unlawful detainer actions has been challenged and found to be constitutional. Specifically, the ex parte procedure was challenged on constitutional due process grounds and upheld in 1898. State ex rel. German Sav. & Loan Soc. v.

Prather, 19 Wash. 336, 53 P. 344 (1898) (holding that the issuance of the writ in what is now RCWA 59.12.090 did not deny due process). Thus, for well over 100 years, the governing statute has allowed the issuance of a writ of restitution without advance notice or the need for an order to show cause hearing.

C. Notice To Appellant Was Sufficient Under The Governing Statutes

Appellant's challenge to the commissioner's denial of the Appellant's Motion to Vacate Writ as no advance notice of the issuance of the Writ of Restitution was provided. As to any other issues, an appellate court may refuse to review any claim of error which was not raised in the trial court. Hall v. Feigenbaum, 178 Wash. App. 811, 817-18, 319 P.3d 61, 64, review denied, 180 Wash. 2d 1018, 327 P.3d 54 (2014).

RCW 59.12.040 provides that

[a]ny notice provided for in this chapter shall be served either (1) by delivering a copy personally to the person entitled thereto; or (2) if he or she be absent from the premises unlawfully held, by leaving there a copy, with some person of suitable age and discretion, and sending a copy through the mail addressed to the person entitled thereto at his or her place of residence; or (3) if the person to be notified be a tenant, or an unlawful holder of premises, and his or her place of residence is not known, or if a person of suitable age and discretion there cannot be found then by affixing a copy of the notice in a conspicuous place on the premises unlawfully held, and

also delivering a copy to a person there residing, if such a person can be found, and also sending a copy through the mail addressed to the tenant, or unlawful occupant, at the place where the premises unlawfully held are situated.

RCW 59.12.040; Hall v. Feigenbaum, 178 Wash. App. at 819, 319 P.3d at 65 (2014). The purpose of the notice is to give a occupant “ at least one opportunity to correct a breach before forfeiture under the accelerated restitution provisions of RCW 59.12. Id. at 820. In this case, the Appellant was not the record owner of the Property and had adequate notice as required under the governing statutes, as notice was served on a person of suitable age and discretion, and sent through the mail addressed to the person entitled thereto.

IV. CONCLUSION

The Court should affirm the trial court ruling as Appellant’s argument that he was entitled to notice each time a Writ of Restitution is issued is not supported by the governing statutes; and the Court did not error in finding that Appellant's Motion to Vacate Writ lacked an adequate legal basis.

ALDRIDGE PITE, LLP

Dated: May 9, 2016

By: /s/ Julia A. Phillips
JULIA A. PHILLIPS,
WSBA# 32735
Attorneys for DEUTSCHE

BANK NATIONAL TRUST
COMPANY, AS TRUSTEE,
ON BEHALF OF THE
OLDERS OF THE WAMU
MORTGAGE PASS-
THROUGH CERTIFICATES,
SERIES 2006-AR4, Its
successors and/or assigns,

No. 73124-6-1
THE COURT OF APPEALS, DIVISION I
State of Washington

WESLEY SCHLEPP,

Appellant

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS
TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-
AR4, Its successors and/or assigns,

Respondent.

RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF RESPONDENT'S BRIEF

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Respondent DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AR4 (“Deutsche Bank” or “Respondent”) respectfully requests that the Court take judicial notice of the records more particularly described below, pursuant to ER Rule 201(d):

Exhibit A: Adversary Proceeding Complaint filed August 15, 2014, filed in the Bankruptcy Court for the Western District of Washington, Adversary Proceeding No. 14-01327-TWD

Exhibit B: Order Granting Motion to Dismiss Adversary Complaint

Pursuant to ER201(b), the Court may take judicial notice of adjudicative facts which are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

ALDRIDGE PITE, LLP

Dated: May 9, 2016

By: /s/ Julia A. Phillips
JULIA A. PHILLIPS,
WSBA# 32735
Attorneys for DEUTSCHE
BANK NATIONAL TRUST
COMPANY, AS TRUSTEE,
ON BEHALF OF THE
HOLDERS OF THE WAMU
MORTGAGE PASS-
THROUGH CERTIFICATES,
SERIES 2006-AR4, Its
successors and/or assigns,

EXHIBIT A

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Plaintiff *in Pro Se*

FILED
2014 AUG 15 PM 2:19
M. L. HATCHER, CLK
U.S. BANKRUPTCY COURT
W.D. OF WA AT SEATTLE
BY _____ DEP. CLK.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

WESLEY ALLEN SCHLEPP,

Plaintiff,

vs.

**DEUTSCHE BANK NATIONAL
TRUST COMPANY, AS
TRUSTEE, ON BEHALF OF
THE HOLDERS OF THE
WAMU MORTGAGE PASS-
THROUGH CERTIFICATES,
SERIES 2006-AR4, its successors
and/or assigns; and DOES 1-20,
inclusively**

Defendants.

) CASE NO. 14-15869-TWD

) ADVERSARY PROCEEDING

) CASE NO: _____

) VERIFIED COMPLAINT FOR:

-) 1. Wrongful Foreclosure**
-) 2. Civil RICO Violation**
-) 3. Civil Conspiracy**
-) 4. Violation of FDCPA**
-) 5. Declaratory Relief**
-) 6. Quiet Title**

1 **JUDICIAL NOTICE**

2
3 Plaintiff moves this Honorable Court to take Mandatory Judicial Notice
4 under the Federal Rules of Civil Procedure Rule 201 (d) of the following:

5
6 a. The United States Supreme Court, in *Haines v Kerner* 404 U.S. 519
7 (1972), said that all litigants defending themselves must be afforded the
8 opportunity to present their evidence and that the Court should look to the
9 substance of the complaint rather than the form.

10
11
12 b. In *Platsky v CIA*, 953 F.2d 26 (2nd Cir. 1991), the Circuit Court of
13 Appeals allowed that the District Court should have explained to the litigant
14 proceeding without a lawyer, the correct form to the plaintiff so that he could
15 have amended his pleadings accordingly. Plaintiff respectfully reserves the right
16 to amend. A pro se plaintiff's pleadings and filings are liberally construed and
17 are held to a less stringent standard than documents drafted by attorneys.
18
19
20
21 *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Hamilton v. Brown*, 630 F.3d 889,
22 893 (9th Cir. 2011). In evaluating a pro se plaintiff's "compliance with the
23 technical rules of civil procedure, we treat him with great leniency." *Draper v.*
24 *Coombs*, 792 F.2d 915, 924 (9th Cir. 1986).
25
26
27 this complaint.
28

c. Under the Federal Rules of Evidence 1002 and 1003 governing the
admissibility of duplicates, any photocopies brought in as evidence are considered

1 to be forgeries. It is unfair to admit a photocopy in the place of an original as
2 there are information contained within the original that is not in a photocopy,
3 specifically the only legally binding chain of title to the promissory note.
4

5
6 d. Under Uniform Commercial Code - ARTICLE 3 -§3-308, all signatures
7 presented that is not on an original format (with the original wet ink signature) is
8 hereby denied and is inadmissible.
9

10
11
12 **I. THE PARTIES**
13

- 14 1. Plaintiff is now, and at all times relevant to this action, a resident of the
15 County of KING, State of WASHINGTON.
16 2. Defendant, DEUTSCHE BANK NATIONAL TRUST COMPANY, AS
17 TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU
18 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-AR
19 (“DEUTSCHE”) is a Real Estate Mortgage Investment Conduit (“REMIC”)
20 doing business the County of KING, State of WASHINGTON.
21 3. Plaintiff does not know the true names, capacities, or basis for liability of
22 Defendant sued herein as Does 1 through 20, inclusive, as each fictitiously
23 named Defendant is in some manner liable to Plaintiff, or claims some right,
24 title, or interest in the Property. Plaintiff will amend this Complaint to allege
25 their true names and capacities when ascertained. Plaintiff is informed and
26 believes, and therefore alleges, that at all relevant times mentioned in this
27 Complaint, each of the fictitiously named Defendant is responsible in some
28

1 manner for the injuries and damages to Plaintiff so alleged and that such
2 injuries and damages were proximately caused by such Defendant.
3
4

5 **II. JURY TRIAL DEMANDED**

6 4. Plaintiff requests a jury trial on all issues.
7

8 **III. JURISDICTION**

9 5. This Court has original jurisdiction over the claims in this action based on 28
10 U.S.C. §§1331, 1343, 2201, 2202, 15 U.S.C. §1692, 12 U.S.C. §2605, and 42
11 U.S.C. §1983 which confer original jurisdiction on federal district courts in
12 suits to address the deprivation of rights secured by federal law.
13
14

15 6. This Court also has supplemental jurisdiction over any pendant state law
16 claims because they form a part of the same case or controversy under Article
17 III of the United States Constitution, pursuant to 28 U.S.C. §1367.
18

19 7. This Court has original jurisdiction over the claims in this action based on 28
20 U.S.C. §1332 which confers original jurisdiction on Federal district courts in
21 suits between diverse citizens that involve an amount in controversy in excess
22 of \$75,000.00. In the case at bar, all of the Defendant and the Plaintiff is
23 diverse based upon the current construction of that language under 28 U.S.C.
24 §1332. Every issue of law and fact in this action is wholly between citizens
25 of difference states. The actual mortgage at issue in this case is in the amount
26 of \$503,000.00. As such, Plaintiff contends, is informed and believes that this
27
28

1 court has jurisdiction over this case pursuant to 28 U.S.C. §1332(a)(1).

2
3 8. The unlawful conduct, illegal practices, and acts complained of and alleged in
4 this Complaint were all committed in this District of Washington and involved
5 real property that is location in this District of Washington. Therefore, venue
6 properly lies in this District, pursuant to 28 U.S.C. §1391(b).

7
8
9 9. Plaintiff is now, and at all times mentioned herein, individuals residing in the
10 City of SAMMAMISH, in the State of WASHINGTON.
11

12
13 **IV. FACTUAL ALLEGATIONS**
14

15 10. This is an action brought by Plaintiff for declaratory judgment, injunctive and
16 equitable relief, and for compensatory, special, general and punitive damages.
17

18
19 11. On or about July 31, 2014, a Writ of Restitution was posted on his door by the
20 King County Sheriff Department. Along with the Writ of Restitution was a
21 eviction warning, stating that the Sheriff would evict any person remaining on
22 the premises after August 4, 2014, would be physically be removed by King
23 County Superior Court order. .
24

25
26
27 12. Plaintiff was shocked and distraught as he was never even served a 3/30 day
28 notice. There was never an Unlawful Detainer served, there was never any
documentation mailed, posted or personally given to him.

- 1 13. Plaintiff never received a show cause hearing nothing. Just a lockout notice!
2
3 14. Had Plaintiff been properly served, he would have litigated this matter to the
4 fullest!
5
6 15. Upon becoming aware of this illegal process, Plaintiff has filed his Motion to
7 Vacate with the King County Superior Court in attempt to get the default
8 judgement removed.
9
10 16. Plaintiff hereby brings this action against Defendant DEUTSCHE as follows:

11
12 **V. FIRST CAUSE OF ACTION**

13
14 **VIOLATIONS UNDER TITLE 12 § 226.39 (regulation Z) part (a)**
15 **("WRONGFUL FORECLOSURE")**
16 **(Defendant)**

- 17 17. Plaintiff re-allege and incorporate by reference all preceding paragraphs as
18 though fully set forth herein. Under Title 12 § 226.39 (regulation Z) part (a),
19 18. Defendant DEUTSCHE did not have the right to foreclose on the subject
20 Property; as it is not the holder of the note. Plaintiff has sent multiple requests
21 to the original lender, Washington Mutual ("WAMU") requesting they
22 respond to his QWR and proof of ownership. To date, no response from
23 WAMU.
24
25 19. Plaintiff has not been notified of any change or assignment of his loan to
26 Defendant DEUTSCHE.

27 In a recent case law, it was ruled as follows:

28 *It is the creditor's responsibility to keep a borrower and the Court informed as to who owns the note and mortgage and is servicing the*

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loan, not the borrower's or the Court's responsibility to ferret out the truth...

It is worth repeating as a warning to lenders and servicers that the rules of this Court apply to them. Their private agreements and the frenzied trading market for mortgages do not excuse compliance with Bankruptcy Rules any more than they would justify ignoring the Bankruptcy Code. (In re Nosek, 406 B.R. 434, 440 (D.Mass 2009) bankruptcy trial court decision)

Under US Code TITLE 15 > CHAPTER 41 > SUBCHAPTER V > § 1692g part b), this debt has been and is now officially in dispute. By law, all collection activities must cease until this matter is resolved. Defendant is hereby given notice. Blatant disregard for this law is subject to fines by the FTC.

20. An actual controversy has arisen and now exists between Plaintiff and Defendant DEUTSCHE I, regarding their respective rights and duties, in that Plaintiff contends that Defendant, did not have the right to foreclose on the Property because Defendant DEUTSCHE was not the holder of the Note.

21. Defendant DEUTSCHE cannot show and has not shown proper chain of title and/or standing to be filing any claim as indicated. Defendant is a trust established under the federal Real Estate Mortgage Investment Conduit (REMIC) Act and subject to its provisions and SEC regulations. Pursuant to same, the REMIC trust is classified as a "special purpose vehicle." The REMIC Trustee is not the real and beneficial party in interest because the REMIC trust does not own the notes and the Trustee consequently has no legal standing to enforce or collect on the promissory note.

22. A REMIC cannot foreclose on a property. When a loan goes into default, it

1 gets written off. Once an asset is written off, it gets tax credits from the IRS.
2 This means it is settled. The Note is gone. Inasmuch as Defendant DEUTSCHE
3 is a trust, it wrongfully and illegally foreclosed on Plaintiff's home.
4

5
6 23. Now Plaintiff's home has been foreclosed on, and to add insult to injury,
7 Defendant DEUTSCHE has obtained a Writ of Restitution to forcibly evict
8 plaintiff from his home without ever posting a 3/30 day notice; without
9 serving Plaintiff with a Summons and Unlawful Detainer; and more
10 importantly without proving they were the holder of the note. They must be
11 stopped!
12

13
14
15 24. Defendant DEUTSCHE was not the holder of the Note, and it did not have
16 the right to foreclose. Plaintiff's loan was securitized, therefore the original
17 lender WAMU has already been paid. At that time the debt was written off
18 and the debt should be considered settled. Plaintiff has expert witnesses who
19 will testify to the fact that his original lender has profited from the
20 securitization of his mortgage.
21

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24
25 25. Plaintiff is informed and believes that once a loan has been securitized, or
26 converted to stock, it is no longer a loan and cannot be converted back into a
27 loan. That means that Plaintiff's promissory note no longer exists, as such.
28 And if that is true, then his mortgage or deed of trust is no longer securing
anything. Instead of the bank insisting that she has breached the contract

1 specified in the promissory note, Plaintiff argues that the bank has actually
2 destroyed that agreement itself. And if the agreement doesn't exist, how can it
3 be enforced? A corollary to this argument states that his loan is no longer
4 enforceable because it is now owned by many shareholders and a promissory
5 note is only enforceable in its whole entirety. How can thousands of people
6 foreclose on your house?
7
8
9

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11 **VI. SECOND CAUSE OF ACTION**
12 **CIVIL RICO VIOLATION 18 U.S.C. § 1962**
13 **(Defendant)**
14

15 26. Plaintiff alleges and incorporated by reference all proceeding paragraphs
16 as though fully set forth herein.
17

18 27. At all times material, Plaintiff believes that Defendant DEUTSCHE
19 engaged in improper conduct. Plaintiff further believes that Defendant
20 unlawfully employed the U.S. Mail, State Courts, County Recorder's Office
21 and Robo-signors who fabricated manufactured evidence to unjustly enrich
22 themselves by divesting Plaintiff of his home. Had they not used Robo-
23 signors to illegally and wrongfully transfer property, Plaintiff would not have
24 been foreclosed on.
25
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28 28. Plaintiff believes that Defendant was the principal or participated in the
operation, management of this scheme itself and the patter of racketeering

1 include at least acts, transmission, the use of mail of fake assignments and
2 mortgage and fictional corporate signatures.

3
4
5 29. As a result of Defendant's manufactured default and the use of the State
6 Court and County Recorder's office, Plaintiff's home has been wrongfully
7 foreclosed on and despite his objections and demands for proof of ownership
8 by Defendant, he has been ignored.
9

10
11
12 **VII. THIRD CAUSE OF ACTION**
13 **CIVIL CONSPIRACY**
14 **(Defendant)**

15 30. Plaintiff re-alleges and incorporated by reference all preceding
16 paragraphs as though fully set forth herein.

17 31. Plaintiff asserts and believes that the Defendant conspired and
18 collaborated to divest him of his home. Plaintiff believes there was a willful
19 and intentional misuse of the origination process, securitization of his loan,
20 and the foreclosure process. There has been a sophisticated shell game
21 wherein Plaintiff's property was assigned from one entity to another without
22 any notice or notification. He was deceived at every turn and which resulted
23 in his home being foreclosed. Plaintiff believes that Defendant are attempting
24 to defraud his through the use of sham documents and fabricated evidence.
25
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See *Olson v. Johnson*, 961, So 2nd 356, 359.

1
2 **VIII. FOURTH CAUSE OF ACTION**
3 **VIOLATION OF FAIR DEBT COLLECTION PRACTICES (FDCPA)**
4 **U.S.C. 1692e § 807(5)**
5 **(Defendants)**

6 32. Plaintiff re-alleges and incorporated by reference all preceding paragraphs as
7 though fully set forth herein.

8
9 33. Plaintiff asserts and believes Defendant knew it did not have a right to collect
10 payments and or threaten to foreclose; and ultimately foreclose on Plaintiff's
11 real property. Plaintiff believes, instead of proving they had standing, the right
12 to collect a debt and/or foreclose on his property, they created manufactured
13 evidence and sham recordings to aid them in accomplishing their goals of
14 divesting Plaintiff of his home.
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18 **IX. FIFTH CAUSE OF ACTION**
19 **DECLARATORY RELIEF**
20 **(Defendant)**

21
22 34. Plaintiff re-alleges and incorporates by reference all preceding paragraphs as
23 though fully set forth herein.

24 35. An actual controversy has arisen and now exists between Plaintiff and
25 Defendant concerning their respective rights and duties regarding the Note and
26 Mortgage/Trust Deed.

27 36. Plaintiff is informed and believes and upon that basis alleges that Defendant
28 dispute Plaintiff's contentions and instead contend the foreclosure sale upon
the property was valid or legal.

1 37. An actual controversy has arisen and now exists between Plaintiff and
2 Defendant concerning their respective rights and duties regarding the Note
3 and Trust Deed.

4
5 38. Plaintiff contends that no party had the authority to auction Plaintiff's home
6 and the sale must be rescinded.

7 39. Plaintiff requests a determination of the validity of the Trust Deeds utilized to
8 foreclose as well as a judicial determination of whether any Defendant had the
9 legal right to foreclose based upon the Mortgage.

10 40. Plaintiff requests a determination of whether any Defendant had authority to
11 foreclose on the Property.
12

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14 **X. SIXTH CAUSE OF ACTION**
15 **QUIET TITLE**
16 **(Defendant)**

17 41. Plaintiff is, and at all times herein mentioned the owner and/or entitled to
18 possession of the property located at 2804 E. Lake Sammamish Pkwy NE
19 Sammamish, WA 98074
20

21 42. Plaintiff is informed and believes, and thereupon alleges that Defendant
22 DEUTSCHE, claim an interest in the property adverse to plaintiff herein.
23 However, the claim of said Defendant is without any right whatsoever, and
24 said Defendant not legal or equitable right, claim, or interest in said property.
25 Defendant is not the holder of the Note.
26

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28 43. Plaintiff therefore seeks a declaration that the title to the subject property is
vested in plaintiff's name alone and that Defendant DEUTSCHE herein, be

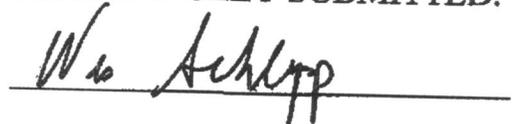
1 declared to have no estate, right, title or interest in the subject property and
2 that said Defendant be forever enjoined from asserting any estate, right, title or
3 interest in the subject property adverse to plaintiff herein.
4

5
6 **PRAYER FOR RELIEF**

7 WHEREFORE Plaintiff, will ask for the following for each Cause of Action
8 to be awarded and requests that the court enter judgment in favor of Plaintiff and
9 against Defendant:
10

- 11 1. For an order compelling said Defendant DEUTSCHE, to transfer legal title
12 and possession of the subject property to Plaintiff WESLEY A. SCHLEPP
13 herein;
- 14 2. For a declaration and determination that Plaintiff is the rightful holder of
15 title to the property and that Defendant DEUTSCHE, be declared to have
16 no estate, right, title or interest in said property;
- 17 3. For a judgment forever enjoining said defendants, and each of them, from
18 claiming any estate, right, title or interest in the subject property;
- 19 4. declaratory judgment against all Defendant;
- 20 5. injunctive and equitable relief;
- 21 6. all rights of ownership/possession of property restored to Plaintiff;
- 22 7. temporary restraining order to stop the unlawful eviction of Plaintiff from
23 the subject property;
- 24 8. statutory damages for the disclosure violation;
- 25 9. litigation expenses and costs; and
- 26 10. such other relief as the court may deem just and proper.
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RESPECTFULLY SUBMITTED.



WESLEY A. SCHLEPP
Plaintiff in Pro Se

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VERIFICATION OF PLAINTIFF(S)

I am, WESLEY A. SCHLEPP, the Plaintiff in the above entitled action. I have read the foregoing Complaint and know its contents thereon. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

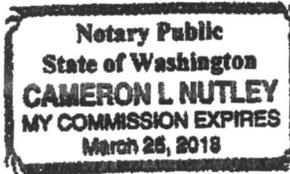
I declare under penalty of perjury under the laws of the State of WASHINGTON that the foregoing is true and correct.

Dated: 8-13-14

Wes Schlepp
WESLEY A. SCHLEPP, Plaintiff
In Pro Se

Notary Public, State of WASHINGTON

C L Nutley
8/13/2014



ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS WESLEY ALLEN SCHLEPP		DEFENDANTS DEUTSCHE BANK NATIONAL TRUST COMPANY
ATTORNEYS (Firm Name, Address, and Telephone No.) WESLEY ALLEN SCHLEPP, In Pro Se Wesley A. Schiepp 2804 E. Lake Sammamish Pkwy NE Sammamish, WA 98074		ATTORNEYS (If Known) Julia A. Phillips P/O Duncan 9311 SE 36th Street, Suite 100 Mercer Island, WA 98040
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee		PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) 1. Wrongful Foreclosure - VIOLATIONS UNDER TITLE 12 § 226.39 (regulation Z) part (a) 2. Civil RICO Violation - 18 U.S.C. § 1962 3. Civil Conspiracy 4. Violation of FDCPA - U.S.C. 1692a § 807(5) 5. Declaratory Relief 6. Quiet Title		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)		FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa et seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
<input checked="" type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ 530,000.00
Other Relief Sought Quiet Title		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR WESLEY ALLEN SCHLEPP		BANKRUPTCY CASE NO. 14-15869-TWD
DISTRICT IN WHICH CASE IS PENDING WESTERN DISTRICT OF WASHINGTON		DIVISION OFFICE NAME OF JUDGE TIMOTHY W. DORE
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING		DIVISION OFFICE NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) <i>W.A. Schlepp</i>		
DATE 8-13-14	PRINT NAME OF ATTORNEY (OR PLAINTIFF) WESLEY ALLEN SCHLEPP	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

EXHIBIT B

Below is the Order of the Court.



Timothy W. Dore

Timothy W. Dore
U.S. Bankruptcy Court
(Dated as of Entered on Docket date above)

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THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON - SEATTLE DIVISION

In re
WESLEY ALLEN SCHLEPP,
Debtor.

Bankruptcy Case No. 14-15869-TWD
Chapter 7
Adv. Proc. No. 14-01327-TWD

WESLEY ALLEN SCHLEPP
Plaintiff,

v.

**DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE ON BEHALF OF
THE HOLDES OF THE WAMU
MORTGAGE PASS THROUGH
CERTIFICATES, SERIES 2006-AR4, ITS
SUCCESSORS AND OR ASSIGNS**

Defendant.

**ORDER GRANTING MOTION TO
DISMISS COMPLAINT FOR (1)
WRONGFUL FORECLOSURE (2)
CIVIL RICO VIOLATION (3) CIVIL
CONSPIRACY (4) VIOLATION OF
FDCPA (5) DECLARATORY RELIEF
(6) QUIET TITLE FOR LACK OF
STANDING, LACK OF SUBJECT
MATTER JURISDICTION, AND
FAILURE TO STATE A CLAIM UPON
WHICH RELIEF CAN BE GRANTED**

24 This matter having come before the Court on Deutsche Bank National Trust Company, as
25 trustee, on behalf of the holders of WaMu Mortgage Pass-Through Certificates, Series 2006-AR4's
26 Motion to Dismiss Complaint for (1) Wrongful Foreclosure (2) Civil Rico Violation (3) Civil
27 Conspiracy (4) Violation Of FDCPA (5) Declaratory Relief (6) Quiet Title For Lack Of Standing,
28 Lack Of Subject Matter Jurisdiction, And Failure To State A Claim Upon Which Relief Can Be

ORDER GRANTING MOTION TO DISMISS
Page - 1 -

PITE DUNCAN, LLP
4375 Jutland Drive, P.O. Box 17933
San Diego, CA 92177-0933
Telephone (425) 644-6471

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COURT OF APPEALS DIVISION I OF THE STATE OF WASHINGTON

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE, ON BEHALF
OF THE HOLDERS OF THE WAMU
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2006-AR4, Its
successors and/or assigns,

Respondent,

vs.

WESLEY SCHLEPP, et al.,

Appellant.

Case No. 731246

DECLARATION OF SERVICE

I, the undersigned, declare: I am, and was at the time of service of the papers herein referred to, over the age of 18 years, and not a party to this action. My business address is 4375 Jutland Drive, Ste. 200, P.O. Box 17935, San Diego, California 92177-0935.

On May 9, 2016, I served the following document(s):

RESPONDEANT’S BRIEF

RESPONDENT’S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF RESPONDENT’S BRIEF

on the parties in this action addressed as follows:

Wesley Schlepp
12212 N.E. 62nd St.
Kirkland, WA 98033

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 X **BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

 BY CERTIFIED MAIL: I placed a true copy in a sealed envelope addressed as indicated above via certified mail, return receipt requested.

 BY FACSIMILE: I personally sent to the addressee's facsimile number a true copy of the above-described document(s). I verified transmission with a confirmation printed out by the facsimile machine used. Thereafter, I placed a true copy in a sealed envelope addressed and mailed as indicated above.

 X **BY FEDERAL EXPRESS:** I placed a true copy in a sealed Federal Express envelope addressed as indicated above. I am familiar with the firm's practice of collection and processing correspondence for Federal Express delivery and that the documents served are deposited with Federal Express this date for overnight delivery.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed this 9TH day of May, 2016, at San Diego, California.

/s/ Cynthia A. Barnes

CYNTHIA A. BARNES