

No. 74210-8-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

MICHAEL J. BEVERICK and CINDY M. BEVERICK,
husband and wife,

Plaintiffs/Appellants,

v.

LANDMARK BUILDING AND DEVELOPMENT INC.; LAND
TITLE & ESCROW COMPANY, and WMC MORTGAGE CORP., and
AURORA BANK FSB, and U.S. BANK ASSOCIATION AS TRUSTEE
for STRUCTURED ASSET CORPORATION MORTGAGE PASS
CERTIFICATES, SERIES 2007-GELI Acct. No. 0122944200 and
BISHOP AND LYNCH OF KING CO., and MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS, INC., and NATIONSTAR
MORTGAGE,

Defendants/Respondents.

RESPONDENT WMC MORTGAGE CORP.'S BRIEF

Shawn Larsen-Bright WSBA 37066
Zach Davison WSBA 47873
DORSEY & WHITNEY LLP
701 Fifth Avenue, Suite 6100
Seattle, WA 98104-7043
P: (206) 903-8800
F: (206) 903-8820

Attorneys for Respondent
WMC MORTGAGE CORP.

TABLE OF CONTENTS

I. INTRODUCTION1

II. COUNTER STATEMENT OF THE ISSUES PRESENTED.....3

III. COUNTER STATEMENT OF THE CASE.....3

 A. Appellants Obtained A Mortgage Loan, Years Later Defaulted On Their Loan, And Never Once Interacted With The Original Lender WMC.....3

 B. Following Their Default, Appellants Commenced This Lawsuit To Challenge Foreclosure5

 C. The Trial Court Properly Found The Note And Deed Of Trust To Be Enforceable.7

 D. The Trial Court Properly Dismissed Appellants’ Claim Against WMC7

IV. ARGUMENT10

 A. Standard Of Review10

 B. Appellants Failed To Present Evidence That WMC Committed An Unfair Or Deceptive Act In Violation Of The CPA12

 C. Appellants Failed To Present Evidence That Any Act By WMC Caused Them Any Cognizable Injury16

 1. Washington Courts Have Consistently Dismissed CPA Claims Like This One As A Matter Of Law.....16

 2. Appellants Have No Evidence That The Costs They Allege Were Caused By An Unfair Or Deceptive Act Of WMC.....18

 3. Appellants Have No Evidence Of Any Attorneys’ Fees That Constituted An Injury Recoverable Under The CPA, Nor That Any Such Injury Was Caused By WMC24

 4. WMC’s Alleged Misconduct Did Not

	Proximately Cause Any Injury To Appellants	26
D.	Appellants' Other Causes of Action Were Also Properly Dismissed	28
V.	CONCLUSION.....	29

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Babrauskas v. Paramount Equity Mortgage</i> , No. 13-0494, 2013 U.S. Dist. LEXIS 152561 (W.D. Wash. Oct. 23, 2013)	17, 22
<i>Bain v. Metro. Mortg. Grp., Inc.</i> , 175 Wn.2d 83, 285 P.3d 34 (2012).....	13, 14, 16
<i>Bakhchinyan v. Countrywide Bank, N.A.</i> , No. 13-2273, 2014 WL 1273810 (W.D. Wash. Mar. 27, 2014)	20, 22, 24
<i>Bhatti v. Guild Mortgage Co.</i> , 550 F. App'x 514 (9th Cir. Dec. 2, 2013).....	17
<i>Blair v. NW Trustee Servs., Inc.</i> , 193 Wn. App. 18, __ P.3d __ (2016).....	13, 17
<i>Braaten v. Saberhagen Holdings</i> , 165 Wn.2d 373, 198 P.3d 493 (2008).....	10
<i>Coble v. Suntrust Mortg., Inc.</i> , No. 13-1878, 2015 U.S. Dist. LEXIS 19434 (W.D. Wash. Feb. 18, 2015)	13, 14
<i>Demopolis v. Galvin</i> , 57 Wn. App. 47, 786 P.2d 804 (1990)	25
<i>Frias v. Asset Foreclosure Services, Inc.</i> , 181 Wn.2d 412, 334 P.3d 529 (2014).....	26
<i>Hartley v. State</i> , 103 Wn.2d 768, 698 P.2d 77 (1985).....	10
<i>Hiatt v. Walker Chevrolet</i> , 120 Wn.2d 57, 837 P.2d 618 (1992).....	11

<i>Hines v. Data Lines Sys., Inc.</i> , 114 Wn.2d 127, 787 P.2d 8 (1990).....	11
<i>Indoor Billboard/Wash., Inc. v. Integra Telecom of Wash., Inc.</i> , 162 Wn.2d 59, 170 P.3d 10 (2007).....	17, 26
<i>In re Kelly and Moesslang</i> , 170 Wn. App. 722, 287 P.3d 12 (2012).....	11
<i>Kwiatkowski v. Drews</i> , 142 Wn. App. 463, 176 P.3d 510 (2008).....	27
<i>Leingang v. Pierce Cty. Med. Bureau, Inc.</i> , 131 Wn.2d 133, 930 P.2d 288 (1997).....	11, 12
<i>Marts v. U.S. Bank Nat’l Assoc.</i> , No. 15-198, 2016 U.S. Dist. LEXIS 24741 (W.D. Wash. Feb. 26, 2016).....	17, 21, 22, 24
<i>Massey v. BAC Home Loans Serv. LP</i> , No. 12-1314, 2013 U.S. Dist. LEXIS 180472 (W.D. Wash. Dec. 23, 2013).....	17, 23
<i>McAfee v. Select Portfolio Servicing, Inc.</i> , 193 Wn. App. 220, 370 P.3d 25 (2016).....	13, 14, 16
<i>McCrorey v. Fed. Nat. Mortg. Ass’n</i> , No. 12-1630, 2013 U.S. Dist. LEXIS 25461 (W.D. Wash. Feb. 25, 2013).....	18, 22, 23, 28
<i>Moore v. Com. Aircraft Interiors, LLC</i> , 168 Wn. App. 502, 278 P.3d 197 (2012).....	11
<i>Panag v. Farmers Ins. Co. of Wash.</i> , 166 Wn.2d 27, 204 P.3d 885 (2009).....	20, 25, 26
<i>Wash. Fed’n. of St. Emps., Council 28 v. Office of Fin. Mgmt.</i> , 121 Wn.2d 152, 849 P.2d 1201 (1993).....	10

Wear v. Sierra Pac. Mortg. Co.,
 No. 13-535, 2013 U.S. Dist. LEXIS 161852 (W.D.
 Wash. Nov. 12, 2013)26

White v. State,
 131 Wn.2d 1, 929 P.2d 396 (1997).....11

Young v. Key Pharm., Inc.,
 112 Wn.2d 216, 770 P.2d 182 (1989), *overruled on*
other grounds, 130 Wn.2d 160 (1996).....10

Zalac v. CTX Mortg. Corp.,
 No. 12-01474, 2013 U.S. Dist. LEXIS 20269 (W.D.
 Wash. Feb. 14, 2013) *aff'd*, 628 F. App'x. 522 (9th Cir.
 Jan. 7, 2016).....13, 14, 15

Statutes

Washington Consumer Protection Act..... *passim*

Other Authorities

GR 14.113

I. INTRODUCTION

Five years ago, Appellants Michael and Cindy Beverick (“Appellants”) defaulted on their mortgage loan. In an effort to forestall or delay foreclosure proceedings, Appellants then brought this lawsuit against numerous defendants seeking to “quiet title” and “cancel” their debt, principally based on the meritless contention that the underlying promissory note and deed of trust for their mortgage loan were somehow unenforceable against them. Appellants also asserted claims under the Washington Consumer Protection Act (“CPA”) arising from the same basic contention. Appellants’ efforts to avoid the consequences of their default are identical to those that have been rejected in countless mortgage cases in this Court and other courts across the state in recent years. Consistent with this settled law and the undisputed facts, the trial court here properly held that the note and deed of trust were valid and ordered that foreclosure could proceed.

Respondent WMC Mortgage Corp. (“WMC”) has no interest in the note or the deed of trust, and it had no involvement in the disputes about the foreclosure proceedings arising from Appellants’ default. WMC’s only connection to this case is that it was Appellants’ original lender, before it long ago divested its interest in the loan. Nonetheless, Appellants added WMC as a defendant in this lawsuit, contending that WMC somehow violated the CPA in connection with their loan. As the trial court correctly held in granting WMC’s motion for summary judgment, there is simply no evidence supporting Appellants’ claim.

More specifically, despite the benefit of full discovery, Appellants have no evidence that WMC engaged in any unfair or deceptive act or practice in violation of the CPA, nor any evidence that any purportedly deceptive act proximately caused any cognizable injury to Appellants. Appellants' entire CPA claim against WMC is based on the fact that the deed of trust identified MERS as a beneficiary. But Washington law is clear that the mere identification of MERS on a deed of trust is *not* a per se violation of the CPA; a plaintiff must show some act of deception or concealment. There is no such evidence here. Indeed, Appellants have *admitted* that WMC made no misrepresentations to them and that they never had any interaction with WMC of any kind whatsoever.

Likewise, Appellants have no proof that they were caused any cognizable injury by WMC. Appellants allege that they incurred expenses as a result of their supposed confusion about who to communicate with regarding the loan, such as \$5.59 in postage. But there was no actual confusion. The undisputed evidence is that Appellants knew who to communicate with about their loan, made payments on their loan without any issue for five years, and conveniently became "confused" at the same time they stopped paying. In any event, there is no evidence of any causal connection between any expense and any misconduct of WMC. Appellants' purported confusion had nothing to do with whether MERS was listed as a beneficiary on the deed of trust, which is the allegedly deceptive act claimed by Appellants. Put simply, even if WMC committed some kind of deceptive act (and it did not), Appellants have no

evidence that they suffered any injury as a result.

The record in this case is clear that Appellants obtained a loan and its benefits, then defaulted on the loan, and then, to delay the consequences of having done so, brought this suit alleging theories that Washington courts have repeatedly rejected. Any “injuries” Appellants suffered were self-inflicted, resulting from their own default and tactical efforts to create a record for this lawsuit. As set forth herein, there is no evidentiary basis for any CPA claim against WMC under Washington law. The trial court’s dismissal of the claim on summary judgment should be affirmed.

II. COUNTER STATEMENT OF THE ISSUES PRESENTED

Should the Court affirm summary judgment dismissal of Appellants’ CPA claim against WMC? (YES)

III. COUNTER STATEMENT OF THE CASE

A. Appellants Obtained A Mortgage Loan, Years Later Defaulted On Their Loan, And Never Once Interacted With The Original Lender WMC

On May 1, 2006, Appellants applied for a residential loan using a third party mortgage broker. CP981. Upon completing their application, Plaintiffs met with Land Title & Escrow Company in Mount Vernon, Washington, where they memorialized the loan by executing an Adjustable Rate Note for \$409,600.00 (the “Note”). *Id.*; CP57-62. The Note identified WMC as the lender. CP57. Appellants never communicated or interacted with WMC at any point in the loan application process or subsequent closing. CP890-91. Nor did Appellants

ever thereafter communicate with WMC. *Id.* Despite WMC being listed as the lender on the Note, Appellants never requested information from or sought to communicate with WMC. In fact, they have admitted that they have never had any interaction with WMC of any kind. *Id.*

To secure the Note, Appellants signed a deed of trust, which also identified WMC as the lender (the “Deed of Trust”). CP64-86. The Deed of Trust listed Bishop & Lynch of King County as the trustee, and MERS as the beneficiary and “nominee for [the] Lender and [the] Lender’s successors and assigns.” CP64-65. The Deed of Trust encumbers Appellants’ real property located at 22814 Mud Lake Road, Mount Vernon, Washington 98273. CP66. The Deed of Trust was recorded with the Skagit County Auditor on May 5, 2006. CP64-86.

Subsequently, U.S. Bank National Association, as Trustee for Structured Asset Securities Corporation Mortgage Pass-Through Certificates, Series 2007-GEL1 (“SASCO 2007-GEL1”), was assigned ownership of the Note. CP808-09. Aurora Bank acted as servicer for the loan, responsible for the day-to-day interactions with Appellants concerning their rights and obligations under the Note. *Id.*

Appellants made payments on their mortgage without any problem or issue for five years. CP53-54, 803, 834-36. In September 2011, they stopped making payments and their loan went into default. *Id.*

On December 23, 2011, WMC transferred physical possession of the Note, which was indorsed in blank, to Aurora Bank. CP693-94. On January 17, 2012, MERS assigned “all its rights, title and interest in and to

said Deed of Trust” to Aurora Bank. CP193-94. Appellants and WMC did not have any communications or interactions about any of these transfers, nor did Appellants ever seek any information from WMC concerning MERS’s authority under the Deed of Trust or on any other topic. *Id.*; CP890-92.

On July 1, 2012, the Note was transferred to Nationstar Mortgage LLC (“Nationstar”), which has since that time acted as the loan’s servicer. CP565-66, 568-73. Appellants admit they were informed that the Note’s owner was SASCO 2007-GEL1 and that first Aurora Bank and then Nationstar acted as loan servicers. CP193-94.

Again, the record demonstrates that Appellants never once communicated or interacted with WMC about the loan, any of the transfers or assignments, or any other topic. Similarly, the record contains no evidence that Appellants ever communicated or interacted with MERS. WMC long ago transferred away and does not claim any right or interest in the Note, Deed of Trust, or the encumbered property.

B. Following Their Default, Appellants Commenced This Lawsuit To Challenge Foreclosure

Appellants have not made a single payment on the Note since September 2011. CP53-54. To delay or stave off foreclosure, Appellants commenced this lawsuit in Skagit County Superior Court in August 2012, asserting claims against the various parties involved in the above-described series of events. CP188-200.

Appellants asserted four causes of action in the complaint. The

first three causes of action directly concerned Appellants' efforts to avoid foreclosure for their default. Specifically, Appellants (1) sought to "quiet title" on the real property encumbered by the Deed of Trust; (2) sought "cancellation" of the Note; and (3) sought to have the Deed of Trust deemed unenforceable. CP194-96. None of these three causes of action had anything to do with WMC, which has no interest in the Note, the Deed of Trust, or the encumbered real property.

The only claim asserted against WMC was Appellants' fourth cause of action, for violation of the CPA, which was alleged against all defendants. On their CPA claim, Appellants sought to recover damages "for the amount of moneys paid to the Servicing bank designated by MERS, together with the amount of alleged delinquent payments, fess [sic] and penalties charged by the Servicing bank." CP198. In other words, they sought a refund of the amounts they had paid to date on their loan. They also claimed that their credit standing had been damaged, preventing them from borrowing money at inexpensive rates. *Id.* Appellants did not allege any other injury or damages in their complaint.

With respect to WMC specifically, Appellants solely alleged that WMC violated the CPA because the "representation that MERS was the beneficiary with authority to act as beneficiary of the Deed of Trust on behalf of the note holder was fraudulent." CP197. In other words, the entirety of Appellants' claim that WMC violated the CPA is the fact that the Deed of Trust identified MERS as beneficiary. Appellants did not allege in the Complaint any damages caused by this alleged violation.

CP198.

C. The Trial Court Properly Found The Note And Deed Of Trust To Be Enforceable

In March 2015, nearly three years after the case was filed, Nationstar filed for summary judgment, seeking judicial foreclosure of Appellants' property securing the Note and Deed of Trust. CP1091-1106. Appellants opposed summary judgment, arguing that there were disputed issues of fact, particularly concerning whether Nationstar was the proper "holder" of the Deed of Trust and whether the Note was authentic. CP1341-58.

After full briefing and a hearing, the trial court rejected all of Appellants' arguments and claims about the Note and Deed of Trust. The court found that no genuine issues of material fact existed concerning the Note's authenticity, that Nationstar was the proper "holder" of the Deed of Trust securing the Note, and that Nationstar was entitled to enforce the Note and Deed of Trust through foreclosure. CP1287-94 ("The Deed of Trust is hereby adjudged and decreed to be a valid, subsisting, first, prior and paramount lien."). The court therefore granted Nationstar's summary judgment motion and ordered foreclosure, confirming that there was \$401,232.83 in outstanding principal and accrued interest due and owing under the Note. *Id.*

D. The Trial Court Properly Dismissed Appellants' Claim Against WMC

During discovery, WMC sought to determine what evidence, if any, Appellants might use to support their CPA claim against WMC. No

such evidence was uncovered. During his deposition, Mr. Beverick confirmed that WMC never made any misrepresentations to him and that, as alleged in the complaint, Appellants' purported claim against WMC was based entirely on the fact that MERS was identified as the beneficiary in the Deed of Trust. CP893. When asked to identify what damage Appellants claim to have suffered as a result of WMC's alleged misconduct, Mr. Beverick identified only attorney's fees.¹ CP896. Mr. Beverick did not identify—and the remaining discovery did not reveal—any other evidence supposedly supporting Appellants' claim for damages against WMC.

In June 2015, after discovery was complete, WMC moved for summary judgment, seeking dismissal of all claims alleged against WMC. CP980-93. Appellants acknowledged that the only claim they were asserting against WMC was the CPA claim. CP1471. In opposing WMC's summary judgment motion on the CPA claim, Appellants did not submit any evidence, relying solely on citation to prior court filings. CP1469-83.

In particular, Appellants offered no evidence of any cognizable injury that was allegedly caused by WMC's alleged CPA violation. Appellants argued in their summary judgment briefing that their alleged injury was the cost of postage for correspondence they sent for the claimed purpose of investigating their loan debt. CP1482. Notably, this supposed

¹ As discussed further below, attorneys' fees incurred in pursuing a CPA action are not recoverable damages as a matter of law.

injury was not alleged in Appellants' complaint nor identified by Appellants when asked in discovery about damages caused by WMC. Moreover, none of the correspondence at issue was sent to WMC or concerned WMC, nor did any of it concern MERS being identified as beneficiary on the Deed of Trust. Rather, the correspondence concerned efforts to locate and obtain a copy of the Note. CP805-851. There is no declaration nor any other evidence in the record that ties any of this correspondence to any alleged misconduct of WMC.

In addition, although Appellants now argue that they incurred costs because they were "confused" about ownership and entitlement to the Note (*see, e.g.*, Appellants' Brief at 32), nothing in the record supports that argument. To the contrary, the record demonstrates that Appellants were informed about where to make payments upon the closing of the loan, made payments *for five years* without any confusion, and received information about their loan at closing and when they later asked. CP53-54, 803, 805-13, 834-36, 891. The supposed "confusion" happened to arise at the same time Appellants stopped making payments on their mortgage. *Id.*

Furthermore, the only evidence cited by Appellants concerning alleged investigation costs is a single Certified Mail Receipt apparently reflecting \$5.59 in postage and fees for a letter dated October 24, 2011, nearly five years after the Note was executed, which was sent by Appellants to SASCO 2007-GEL1. CP816-17. The receipt does not identify who paid the postage, and the letter itself had nothing to do with

WMC or MERS's beneficiary designation, but instead concerned SASCO 2007-GEL1's involvement with the loan. *Id.* Appellants presented no evidence of any other alleged injury.

After full briefing, the trial court held a hearing on WMC's motion for summary judgment on August 27, 2015. CP1278-79. Following oral argument from Appellants and WMC, the trial court granted WMC's summary judgment motion, dismissing Appellants' claims against WMC with prejudice. *Id.* Final judgment followed. CP1042-47.

Appellants now appeal the trial court's summary judgment decisions. The *only* issue on appeal relating to WMC is whether the trial court properly dismissed Appellants' claim that WMC violated the CPA. For the reasons set forth herein, the dismissal should be affirmed.

IV. ARGUMENT

A. Standard Of Review

The trial court's summary judgment ruling is reviewed *de novo*, with this Court performing the same inquiry as the trial court on the same record. *See, e.g., Braaten v. Saberhagen Holdings*, 165 Wn.2d 373, 383, 198 P.3d 493 (2008); *Wash. Fed'n. of St. Emps., Council 28 v. Office of Fin. Mgmt.*, 121 Wn.2d 152, 163, 849 P.2d 1201 (1993); *Hartley v. State*, 103 Wn.2d 768, 774, 698 P.2d 77 (1985).

Once the party moving for summary judgment identifies an absence of evidence supporting a claimant's claim, the burden shifts to the claimant to present evidence of specific facts supporting each element of the claim. *Young v. Key Pharm., Inc.*, 112 Wn.2d 216, 225-26, 770 P.2d

182 (1989), *overruled on other grounds*, 130 Wn.2d 160 (1996). Importantly, a “party cannot create genuine issues of material fact by mere allegations, argumentative assertions, conclusory statements, and speculation.” *In re Kelly and Moesslang*, 170 Wn. App. 722, 738, 287 P.3d 12 (2012) (quotations omitted); *see also, e.g., White v. State*, 131 Wn.2d 1, 9, 929 P.2d 396 (1997) (holding that “a nonmoving party may not rely on . . . argumentative assertions that unresolved factual issues remain”). Rather, the plaintiff must go beyond “conclusory statements” and establish, with evidence, “specific and material facts to support each element of his or her prima facie case.” *Hiatt v. Walker Chevrolet*, 120 Wn.2d 57, 66-67, 837 P.2d 618 (1992).

Where “the plaintiff fails to make out a prima facie case on the essential elements of his claim, summary judgment for the defendant is appropriate.” *Moore v. Com. Aircraft Interiors, LLC*, 168 Wn. App. 502, 508, 278 P.3d 197 (2012); *see also, e.g., Hines v. Data Lines Sys., Inc.*, 114 Wn.2d 127, 148, 787 P.2d 8 (1990) (“If the nonmoving party fails to make a showing sufficient to establish the existence of an element essential to his case then the trial court should grant the motion.”).

To recover under the CPA, a plaintiff must prove that (1) the defendant engaged in an unfair or deceptive act or practice; (2) the act occurred in trade or commerce; (3) the act impacts the public interest; (4) the plaintiff suffered injury to his or her business or property; and (5) the injury was caused by the unfair or deceptive act. *See, e.g., Leingang v. Pierce Cty. Med. Bureau, Inc.*, 131 Wn.2d 133, 149, 930 P.2d

288 (1997). Where the plaintiff has not established a prima facie case on each of these elements, the claim should be dismissed on summary judgment. *Id.* at 149-50, 158.

Here, Appellants failed to submit evidence establishing that WMC engaged in an unfair or deceptive practice or that Appellants suffered any cognizable injury caused by the alleged misconduct by WMC. Both of these failures are independently fatal to Appellants' CPA claim. The dismissal of the claim should be affirmed.

B. Appellants Failed To Present Evidence That WMC Committed An Unfair Or Deceptive Act In Violation Of The CPA

First and foremost, Appellants' claim fails because they have not produced evidence that WMC committed any unfair or deceptive act that violated the CPA. Whether conduct is unfair or deceptive under the CPA is a question of law appropriate for resolution on summary judgment. *See Leingang*, 131 Wn.2d at 150.

Appellants have no evidence that WMC did anything unfair or deceptive. It is undisputed that Appellants *never had any interaction or contact with WMC whatsoever*. CP890-91. Further, Appellants have expressly admitted that WMC did not make any misrepresentations to them. CP893 (Mr. Beverick Deposition) (“Q. So did WMC actually make any statements to you that were misrepresentations? A. They didn't make any misrepresentations . . .”).

Instead, Appellants' CPA claim against WMC is based exclusively on the fact that MERS was designated as beneficiary in the Deed of Trust.

CP197; *see also* Appellants' Brief at 33-34. But Washington law is clear that the mere fact that MERS was designated as beneficiary in a deed of trust is *insufficient* by itself to establish an unfair or deceptive act under the CPA.² *See McAfee v. Select Portfolio Servicing, Inc.*, 193 Wn. App. 220, 230, 370 P.3d 25 (2016) (holding, in case where MERS was identified as beneficiary in deed of trust, that the plaintiff did "not raise a genuine issue of material fact related to an unfair or deceptive practice"); *see also Bain v. Metro. Mortg. Grp., Inc.*, 175 Wn.2d 83, 117, 285 P.3d 34 (2012) (holding that characterizing MERS as beneficiary in a deed of trust is not per se deceptive under the CPA).

Accordingly, courts have consistently dismissed CPA claims based on allegations identical to those at issue here. *See McAfee*, 193 Wn. App. at 230 (affirming summary judgment dismissal of CPA claims where MERS was identified as beneficiary in deed of trust); *Blair v. NW Trustee Servs., Inc.*, 193 Wn. App. 18, 37, ___ P.3d ___ (2016) (affirming summary judgment on CPA claims against lenders where MERS was identified as beneficiary); *see also, e.g., Coble v. Suntrust Mortg., Inc.*, No. 13-1878, 2015 U.S. Dist. LEXIS 19434, at *19-21 (W.D. Wash. Feb. 18, 2015) (granting original lender's motion for summary judgment and dismissing plaintiffs' CPA claim where MERS was identified as beneficiary); *Zalac v. CTX Mortg. Corp.*, No. 12-01474, 2013 U.S. Dist. LEXIS 20269, at *7-8 (W.D. Wash. Feb. 14, 2013) (granting motion to dismiss CPA claim

² This Court has repeatedly confirmed this settled principle in numerous recent decisions, which have been designated as unpublished and thus cannot be cited under GR 14.1.

where MERS was identified as beneficiary because the plaintiff “failed to allege any cognizable deceptive or unfair trade or practice arising out of MERS’s involvement”) *aff’d*, 628 F. App’x. 522 (9th Cir. Jan. 7, 2016). Appellants’ claim here was likewise properly dismissed under Washington law.

In their Brief, Appellants argue that “while the use of MERS is not actionable in and of itself, the *Bain* court specifically ruled that the unfair and deceptive act or practice element is presumed based upon MERS’ business model and the manner in which it has been used.” Appellants’ Brief at 33 (citing *Bain*, 175 Wn.2d 83). Appellants’ reading of *Bain*, however, is overly broad and has been soundly rejected by this Court and others. *See, e.g., McAfee*, 193 Wn. App. at 231-32 (rejecting analogous arguments under *Bain* and granting summary judgment on CPA claims); *Coble*, 2015 U.S. Dist. LEXIS 19434, at *22 (rejecting plaintiff’s claim that MERS acted as an ineligible beneficiary under *Bain* and finding that plaintiffs’ “allegations of unfair or deceptive practices lack a factual or legal basis”); *Zalac*, 2013 U.S. Dist. LEXIS 20269, at *7 (holding that the argument that the unfair or deceptive element of a CPA claim is met by the involvement of MERS in a mortgage is a “misapplication of” *Bain*).

In *Zalac v. CTX Mortg. Corp.*, the court usefully explained the limited application of *Bain* to a claim, like Appellants’ claim here, that the CPA was violated simply as a result of MERS being involved in a loan:

The Court in *Bain* only held that characterizing MERS as the beneficiary on a deed of trust has the capacity to deceive homeowners, but held that MERS involvement

does not by itself constitute a per se violation of the CPA. Unlike the “concealment” by MERS at issue in *Bain*, here, Plaintiff does not allege any specific unfair or deceptive act by MERS. Instead, Plaintiff routinely received written notification regarding which entity was servicing his loan and had no communication with MERS.

2013 U.S. Dist. LEXIS 20269, at *7-8 (citations omitted).

These principles apply equally here. Appellants have put forth no evidence of any “concealment” or deception by MERS, let alone by WMC. Nor is there any evidence that Appellants were actually deceived in any way because MERS was identified as beneficiary on the Deed of Trust. To the contrary, just as in *Zalac*, the record is undisputed that Appellants received written notifications regarding which entity was servicing their loan and had no communications with either MERS or WMC. They understood where to make payments and in fact successfully made payments on their loan for five years without issue before defaulting. There is no evidence of any unfair or deceptive act by WMC and thus no legal or factual basis for a CPA claim.

In summary, Appellants never had any interaction with WMC and have produced no evidence of any unfair or deceptive act or practice by WMC. They rely entirely on the fact that MERS was identified as beneficiary in the Deed of Trust, which is insufficient to establish a CPA claim under settled Washington law. For all of the reasons set forth herein, Appellants have failed to produce competent evidence sufficient to establish a genuine issue of material fact on the unfair or deceptive act or practice element of their CPA claim. The trial court’s summary judgment dismissal of the claim should therefore be affirmed.

C. Appellants Failed To Present Evidence That Any Act By WMC Caused Them Any Cognizable Injury

Under settled Washington law, “the mere fact MERS is listed on the deed of trust as a beneficiary is not itself an actionable injury.” *Bain*, 175 Wn.2d at 120; *see also McAfee*, 193 Wn. App. at 230 (same). To overcome summary judgment on their CPA claim, Appellants must not only produce evidence of an unfair or deceptive act by WMC (and there is no such evidence) but must also produce evidence that the alleged act caused them to suffer a recoverable injury. They have not done so. The record contains no evidence of any causal connection between WMC’s alleged misconduct (i.e., MERS being identified as a beneficiary on the Deed of Trust) and any alleged injury incurred by Appellants.

In their Brief, Appellants appear to claim that they incurred two types of injuries: (1) costs incurred to investigate ownership of the loan; and (2) attorney’s fees. *See* Appellants’ Brief at 36-40.³ As set forth below, the trial court correctly dismissed Appellants’ claim because there is no evidence that any such purported injuries were proximately caused by the alleged misconduct of WMC.

1. Washington Courts Have Consistently Dismissed CPA Claims Like This One As A Matter Of Law

Washington law is clear that to establish a CPA claim, a plaintiff “must establish that but for the defendant’s unfair or deceptive practice,

³ In passing, Appellants’ Brief also mentions that CPA injuries can include injury to financial reputation or professional goodwill, but there is absolutely no evidence in the record of any such injury here and Appellants do not even attempt to argue otherwise.

the plaintiff would not have suffered an injury.” *Marts v. U.S. Bank Nat’l Assoc.*, No. 15-198, 2016 U.S. Dist. LEXIS 24741, at *8 (W.D. Wash. Feb. 26, 2016) (quotations omitted). In addition, the plaintiff must also prove that the alleged violation *proximately caused* the alleged injury. *See, e.g., Indoor Billboard/Wash., Inc. v. Integra Telecom of Wash., Inc.*, 162 Wn.2d 59, 84, 170 P.3d 10 (2007). Although causation is generally considered a question of fact, it remains appropriate for resolution on summary judgment where the record fails to include facts that support the requisite causal link. *See, e.g., Blair*, 193 Wn. App. at 37 (explaining that CPA plaintiffs must produce proof of “facts in the record that support a causal link” to avoid summary judgment).

CPA claims identical to the one Appellants have asserted here have been regularly dismissed as a matter of law by Washington courts for failure to prove causation. *See, e.g., id.* (affirming summary judgment on CPA claim involving mortgage default because the plaintiff “failed, as a matter of law, to establish the causal link element of his CPA claim”); *Massey v. BAC Home Loans Serv. LP*, No. 12-1314, 2013 U.S. Dist. LEXIS 180472, at *24-25 (W.D. Wash. Dec. 23, 2013) (granting summary judgment on CPA claim because plaintiff was “unable to show any cognizable injury due to MERS’ presence on the Deed of Trust”); *see also Bhatti v. Guild Mortgage Co.*, 550 F. App’x 514, 515 (9th Cir. Dec. 2, 2013) (affirming dismissal of CPA claim for failure to state a claim where plaintiffs failed to “allege that MERS’s temporary status as beneficiary caused them any injury”); *Babrauskas v. Paramount Equity Mortgage*,

No. 13-0494, 2013 U.S. Dist. LEXIS 152561, at *4 (W.D. Wash. Oct. 23, 2013) (granting motion to dismiss CPA claim concerning MERS as beneficiary, and noting that “plaintiff’s failure to meet his debt obligations is the ‘but for’ cause of” any injuries that were suffered); *McCrorey v. Fed. Nat. Mortg. Ass’n*, No. 12-1630, 2013 U.S. Dist. LEXIS 25461, at *11 (W.D. Wash. Feb. 25, 2013) (granting motion to dismiss CPA claim concerning MERS as beneficiary, and noting that it was the plaintiffs’ “failure to meet their debt obligations” that caused any alleged injury). Appellants’ claim here is no different from any of the countless prior cases in which a defaulting borrower’s CPA claim has been dismissed as a matter of law, and its dismissal should be affirmed.

2. Appellants Have No Evidence That The Costs They Allege Were Caused By An Unfair Or Deceptive Act Of WMC

Appellants’ primary claim of injury supposedly caused by WMC’s alleged misconduct concerns costs they claim to have incurred in order to investigate and determine the authority of the parties who were seeking to collect on the loan. Although Appellants make a variety of assertions in their Brief, there is no declaration in the record supporting the contention that such expenses were actually incurred. Indeed, the *only* evidence in the record cited by Appellants of any supposed injury is a mail receipt for \$5.59. While not clear, the receipt supposedly reflects postage costs incurred by somebody when Appellants sent a certified letter to a party other than WMC. Appellants’ evidence of this postage cost and unsupported assertions about their purported investigation is not remotely

sufficient to establish the causation and injury elements of a CPA claim. Put simply, there is no evidence that this postage or any other supposed injury to Appellants was caused by an unfair or deceptive act by WMC.⁴

With respect to the \$5.59 in postage specifically, there is no evidence that ties that cost to any misconduct of WMC. The cost was incurred five years after the loan was made by WMC and long after WMC had transferred any interest in the loan. It was also incurred to send a letter that had nothing to do with WMC's alleged misconduct (MERS being listed as a beneficiary on the Deed of Trust), but was instead a supposed effort to confirm again the ownership of the Note (information that Appellants had already previously been provided). Appellants have no evidence connecting WMC's initial involvement in the loan in 2006 with the postage costs they incurred when they chose to send a certified letter to a third party in 2011, after they stopped paying their mortgage.

In their Brief, Appellants try to suggest that they were compelled to send out letters to the servicer and owner of the loan because they did not know who to deal with, but that suggestion is unsupported. The record establishes that Appellants knew exactly who was handling their loan. Appellants paid monthly installments on the Note for years without any problem or confusion, but then stopped paying. Notably, in response to

⁴ Appellants' allegations of injury in their complaint made no mention of postage or other similar costs, CP188-200, and likewise Appellants did not identify any such costs when specifically asked in discovery about their damages. CP896. Appellants raised this purported "injury" for the first time in opposition to WMC's motion for summary judgment, in a baseless last ditch effort to avoid dismissal of the claim. CP1469-83.

their very first letter, which they appropriately sent to the loan's servicer to which they had been remitting payments for years, Appellants were given a copy of the Note and written confirmation about who the servicer and owner were. CP808-09. To the extent there was any purported "confusion" about who they should be dealing with when they stopped paying their loan—and there was not—any such "confusion" was immediately resolved. *Id.*; CP810-13. This was *before* Appellants supposedly incurred the \$5.59 in postage they now claim as their damages, which was for additional correspondence to confirm again information they had already been provided. Such costs are not recoverable. *See Bakhchinyan v. Countrywide Bank, N.A.*, No. 13-2273, 2014 WL 1273810, at *6 (W.D. Wash. Mar. 27, 2014) (dismissing CPA claim based on allegations of investigation expenses where plaintiffs had no explanation of why they actually needed to incur the expenses); *Panag v. Farmers Ins. Co. of Wash.*, 166 Wn.2d 27, 64, 204 P.3d 885 (2009) ("If the investigative expense would have been incurred regardless of whether a violation existed, causation cannot be established.").

Furthermore, there is no evidence that ties any purported "confusion" about who to deal with concerning the loan to the fact that MERS had been identified on the Deed of Trust five years earlier. Appellants never communicated with either MERS or WMC, and the letters to other parties did not concern MERS or WMC. There is simply no proof of any causal link between any alleged misconduct of WMC and any purported injury incurred by Appellants.

A variety of recent court decisions further support dismissal of Appellants' claim under the circumstances. Indeed, courts have already soundly rejected the very kinds of arguments being made by Appellants here. For example, in *Marts v. U.S. Bank N.A.*, just as here, MERS was identified on the deed of trust and the original lender transferred away its interest in the loan long before the events at issue. 2016 U.S. Dist. LEXIS 24741, at *2. The plaintiffs then defaulted on the loan and interested parties initiated foreclosure proceedings. *Id.* at *2-4. The plaintiffs then brought a CPA claim alleging that they were injured because "they incurred costs associated with investigating ownership of their note, to determine the party entitled to enforce the note secured by their residence." *Id.* at *6 (quotations omitted).

The court in *Marts* dismissed the CPA claim on summary judgment for lack of proof of causation, rejecting the claim that the plaintiffs had been injured by alleged confusion caused by MERS's involvement in the loan. The court explained:

The record does not contain a declaration from the [plaintiffs] stating that but for their alleged confusion regarding who owned their Note, they would have brought their loan current. Nor is there any evidence that plaintiffs incurred costs bargaining with the wrong entity. They knew whom to submit their loan payments to and whom to contact to apply for a loan modification.

Id. at *9. The court went on to explain that there was "no basis" for the plaintiffs to incur purported "investigation costs" when "plaintiffs knew or should have known" who held the note and owned the loan. *Id.* The court concluded that "plaintiffs have failed to demonstrate any issue of fact

regarding causation of their injuries, all of which appear to be self-inflicted.” *Id.* at *10.

Identical reasoning applies here. Just as in *Marts*, the record does not contain a declaration from Appellants stating that but for their alleged confusion, they would have brought their loan current. Nor have Appellants provided evidence that they were bargaining with the wrong entity, or did not know who to submit their loan payments to or who to contact for a modification. In fact, the evidence is clear they *did* know who to contact concerning their loan. CP805-13. Appellants had no basis for incurring any “investigation costs,” and any supposed “injury” was “self-inflicted.” *Id.* at *9-10; *see also Bakhchinyan*, 2014 WL 1273810, at *6.

Another instructive decision is *Babrauskas v. Paramount Equity Mortgage*. 2013 U.S. Dist. LEXIS 152561. There, the plaintiff brought a CPA claim against a lender for allowing MERS “to represent itself as the beneficiary of the deed of trust,” and for various alleged defects in the lender’s loan origination practices and subsequent assignments of the loan. *Id.* at *2, 5-6. The court granted the lender’s motion to dismiss for lack of causation. The court explained that even if it was assumed that there was an unfair or deceptive act, the plaintiff had not alleged any facts showing that it caused any injury. *Id.* at *11-12. The same is true here.

Similarly, in *McCrorey v. Fed. Nat. Mortg. Ass’n*, the court dismissed a CPA claim, based on MERS’s involvement in the deed of trust, for lack of causation. 2013 U.S. Dist. LEXIS 25461, at *4. The

court noted that the misidentification of a party as beneficiary theoretically could give rise to damages if it resulted in actual injury, such as where the borrower is unknowingly dealing with the wrong entity and thus suffers harm. *Id.* at *11-12. But it then confirmed that there can be no such claim where, as here, the undisputed facts show that the borrower knew the identity of the servicer and recipient of payments. *Id.* As in *McCrorey*, it was Appellants' "failure to meet their debt obligations"—and nothing to do with the form of deed of trust—that was the cause of any alleged injury. *Id.*

Finally, in *Massey v. BAC Home Loans Serv. LP*, yet another case on point, the court dismissed on summary judgment a CPA claim based on MERS's presence on the deed of trust and subsequent assignment of the loan. 2013 U.S. Dist. LEXIS 180472, at *20. Although the plaintiff in that case submitted a declaration claiming various damages (nothing like that exists here), the court nonetheless dismissed the claim because the plaintiff had failed "to provide any evidence connecting her [cognizable] injuries with MERS' presence on the Deed of Trust or Assignment." *Id.* at *22. The court explained that while confusion resulting from MERS's presence on a deed of trust could potentially cause harm, the plaintiff there could not show any such injury because she knew who to submit her loan payments to and who to contact about the loan. *Id.* at *23-24. Again, the same is true here. Just as in *Massey*, Appellants have failed to put forth any evidence that the "presence of MERS on the Deed of Trust" was a "but-for cause of any injury cognizable under the CPA." *Id.* at *24.

For all of these reasons, the trial court's summary judgment dismissal should be affirmed.

3. Appellants Have No Evidence Of Any Attorneys' Fees That Constituted An Injury Recoverable Under The CPA, Nor That Any Such Injury Was Caused By WMC

Beyond the alleged cost of postage, Appellants only other claim of injury is that they "incurred expenses to investigate and consult with counsel to dispel uncertainty regarding the ownership of the loan." Appellants' Brief at 38. This claim of "injury" fails for the same reasons as Appellants' claim about postage. There is no evidence that ties any such expenses to any alleged misconduct of WMC. Moreover, there was no factual basis for Appellants to incur any investigation expenses because, in fact, they already "knew or should have known" who to deal with concerning their loan; they made payments to the right place for five years, sent their first letter seeking information to the right place, and promptly received a response to that letter confirming what they already knew. *Marts*, 2016 U.S. Dist. LEXIS 24741, at *9. Even if they did later incur fees for some purported investigation, those expenses were not caused by WMC. *See Bakhchinyan*, 2014 WL 1273810, at *6.

Furthermore, there is absolutely no evidence in the record that Appellants in fact incurred any attorneys' fees that could somehow be recoverable as damages under the CPA. In their Brief, Appellants cite CP794-851 as their sole record support for this purported injury. But this record excerpt does not have anything to do with potentially recoverable attorneys' fees. Indeed, only a single page in the portion of the record

cited by Appellants even makes a passing reference to the involvement of an attorney, and it does not offer any proof of recoverable injury. CP795. Specifically, the referenced page is a May 2015 declaration of Mr. Beverick, which states that he and his attorney in this lawsuit met with counsel for other parties in this lawsuit on the “day of the hearing on Nationstar’s First Motion for Summary Judgment” *in this case. Id.* In other words, the declaration has nothing to do with investigation expenses, but merely reflects actions his attorney was taking in connection with this litigation, which at that point had been ongoing for three years.

As a matter of law, any fees incurred by Appellants for prosecuting this case do not constitute an “injury” under the CPA. Washington law is settled that a party may not claim expenses incurred in litigation as the “injury” caused by the alleged CPA violation. *See, e.g., Demopolis v. Galvin*, 57 Wn. App. 47, 54-55, 786 P.2d 804 (1990) (holding that litigation expenses incurred in action to challenge foreclosure do not constitute injury under the CPA); *see also Panag*, 166 Wn.2d at 62 (holding that “consulting an attorney to institute a CPA claim . . . is insufficient to show injury”).

In summary, there is no proof that Appellants incurred any attorneys’ fees, and the only evidence cited by Appellants at most reflects actions taken by Appellants’ attorneys in prosecuting this case, which are not recoverable under Washington law. Again, Appellants’ CPA claim is unsupported by proof of any cognizable injury caused by misconduct of

WMC. The claim was properly dismissed.⁵

4. WMC's Alleged Misconduct Did Not Proximately Cause Any Injury To Appellants

Even if Appellants could demonstrate that some misconduct by WMC was a but-for cause of some cognizable injury to them (and they cannot), their claim would still fail because they have not and cannot prove that WMC was also the *proximate cause* of their injury. Under Washington law, a CPA claimant must establish proximate cause between the alleged misconduct and the alleged injury. *See, e.g., Indoor Billboard*, 162 Wn.2d at 84. In this context, the “term ‘proximate cause’ means a cause which in direct sequence unbroken by any superseding cause, produced the injury [or] event complained of and without such injury [or] event would not have happened.” *Wear v. Sierra Pac. Mortg. Co.*, No. 13-535, 2013 U.S. Dist. LEXIS 161852, *7-8 (W.D. Wash. Nov. 12, 2013) (quoting *Schnall v. AT&T Wireless Servs., Inc.*, 171 Wn.2d 260, 278, 259 P.3d 129 (2011)) (citations omitted).

Here, Appellants offer no proof that any misconduct of WMC

⁵ In their Brief, Appellants seem to suggest that their claim should be allowed to proceed, even though they have no evidence of damages caused by WMC, because unquantifiable damages can sometimes be sufficient to establish an injury under the CPA. Appellants are wrong. Appellants cite the inapposite decisions of *Panag v. Farmers Ins. Co.*, 166 Wn.2d 27, 204 P.3d 885 (2009) and *Frias v. Asset Foreclosure Services, Inc.*, 181 Wn.2d 412, 334 P.3d 529 (2014). In *Panag*, the issue was merely whether “unquantifiable damages” like loss to professional goodwill could suffice, but there is nothing like that here. 166 Wn.2d at 62. *Frias* concerned monetary damages in the form of expenses incurred to dispute a debt not lawfully due, which also do not exist here. 181 Wn.2d at 431. Neither decision in any way suggests that a CPA plaintiff can avoid summary judgment even where, as here, there is a complete absence of proof that any cognizable injury was caused by the alleged misconduct.

caused any cognizable injury, let alone that it was a proximate cause. In their Brief, Appellants make the vague, conclusory assertion that “WMC’s original designation of MERS is what caused this chain of events.” Appellants Brief at 39. Yet, the record is completely devoid of any *evidence* to support that assertion. There is no testimony nor any documentation establishing a direct sequence of unbroken events tying the designation of MERS as beneficiary in the Deed of Trust to any injury cognizable under the CPA. “Bare assertions that a genuine material factual issue exists will not defeat a summary judgment motion in the absence of actual evidence.” *Kwiatkowski v. Drews*, 142 Wn. App. 463, 485, 176 P.3d 510 (2008) (quotations omitted).

Furthermore, Appellants’ “chain of events” theory is inconsistent with Washington’s requirement of proximate cause and would impermissibly create an unending risk of liability for distant and remote events. Again, WMC never interacted with Appellants and its only involvement in this loan occurred *five years* before Appellants’ default and newly found “confusion” about who, at that later time, held the Note. Appellants have not produced any evidence demonstrating that they would not have sustained some injury had WMC not been the original lender or had MERS not been listed as beneficiary. The record in fact reveals that there were superseding causes of any injury suffered by Appellants, particularly including their failure to make payments on their loan and failure to cure their default, all of which happened years after WMC’s involvement and broke any distant connection to WMC. *See, e.g.*,

McCrorey, 2013 U.S. Dist. LEXIS 25461, at *4 (dismissing CPA claim because “it was the failure [of plaintiffs] to meet their debt obligations that led to a default, the destruction of credit, and the foreclosure”). For these additional reasons, Appellants’ CPA claim was properly dismissed.

D. Appellants’ Other Causes of Action Were Also Properly Dismissed

Finally, as noted above, in addition to their CPA claim, Appellants sought in this case to quiet title, have the Note cancelled, and have the Deed of Trust deemed unenforceable. WMC was never a proper defendant in any such non-CPA claims concerning the default and foreclosure because WMC has no interest in the Note, the Deed of Trust, or the real property. Accordingly, Appellants appropriately acknowledged in the trial court that the only claim asserted against WMC was the CPA claim. CP1471. Nonetheless, Appellants’ Brief is ambiguous as to whether it is somehow seeking to appeal the dismissal of the non-CPA claims with respect to WMC. To the extent Appellants are attempting to do so, that effort should be rejected. They waived any right to pursue WMC on these claims by abandoning them in the proceedings below. *Id.* Furthermore, their objections to the foreclosure process are entirely without merit under Washington law, as the trial court rightly concluded. These issues are addressed further in the Respondents’ Brief being filed by the other Respondents in this appeal. To avoid unnecessary duplication, WMC hereby adopts and incorporates the arguments contained therein by reference, to the extent applicable to WMC. All of Appellants’ claims

were properly dismissed and their dismissal should be affirmed.

V. CONCLUSION

For the foregoing reasons, WMC respectfully requests that the Court affirm the trial court's dismissal of Appellants' claims against WMC.

Respectfully submitted this 8th day of July 2016.



DORSEY & WHITNEY LLP
Shawn Larsen-Bright WSBA 37066
Zach Davison WSBA 47873
701 Fifth Avenue, Suite 6100
Seattle, WA 98104-7043
P: (206) 903-8800
F: (206) 903-8820

Attorneys for Respondent
WMC MORTGAGE CORP.

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused to be served a copy of the foregoing on the following by the method indicated:

Richard Llewelyn Jones
KOVAC & JONES, PLLC
1750 112th Ave NE Ste. D-151
Bellevue, WA 98004-2976
rlj@kovacandjones.com
Attorney for Appellants

Via Messenger
 Via ECF Notification
 Via Facsimile
 Via U.S. Mail
 Via Electronic Mail

Morgan Milton Witt
PO Box 726
Mount Vernon, WA 98273-0726
morgan@legalwitt.com
Attorneys for Plaintiffs/Counterclaim Defendants

Via Messenger
 Via ECF Notification
 Via Facsimile
 Via U.S. Mail
 Via Electronic Mail

Craig E. Cammock
227 Freeway Drive, Suite B
Mount Vernon, WA 98273
craig@skagitlaw.com
Attorneys for Defendant Land Title & Escrow Company

Via Messenger
 Via ECF Notification
 Via Facsimile
 Via U.S. Mail
 Via Electronic Mail

Ann T. Marshall
Anglin Flewelling Rasmussen
Campbell & Trytten LLP
701 Pike Street, Suite 1560
Seattle, WA 98101-3915
amarshall@afrc.com
Attorneys for Defendant Bishop and Lynch of King Co.

Via Messenger
 Via ECF Notification
 Via Facsimile
 Via U.S. Mail
 Via Electronic Mail

Adam G. Hughes, WSBA No. 34438
Anglin Flewelling Rasmussen
Campbell & Trytten LLP
701 Pike Street, Suite 1560
Seattle, WA 98101-3915
ahughes@afrc.com
Attorneys for Defendants Aurora Bank VSB, US Bank National Assoc., Mortgage Electronic Registration Systems Inc., and Nationstar Mortgage

Via Messenger
 Via ECF Notification
 Via Facsimile
 Via U.S. Mail
 Via Electronic Mail

Wendy E. Lyon, WSBA No. 34461
Riddell Williams PS
1001 Fourth Avenue, Suite 4500
Seattle, WA 98154
wlyon@riddellwilliams.com
*Attorneys for Third Party Defendant
Martin Investments*

- Via Messenger
- Via ECF Notification
- Via Facsimile
- Via U.S. Mail
- Via Electronic Mail

Dated this 8th day of July, 2016.



Jackie Slavik