

69204-6

69204-6

COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2013 AUG -2 PM 3:19

No: 692046

COURT OF APPEALS, DIVISION 1  
OF THE STATE OF WASHINGTON

<p>KEVIN M. YOUNG,  Defendant/Appellant</p> <p>v.</p> <p>U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTR ADJUSTABLE RATE MORTGAGES TRUST 2007-1, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2007-1;</p> <p>Plaintiff/Respondent</p>	<p>APPELLANTS REPLY TO RESPONDENT'S OPPOSITION TO NOTICE OF WITHDRAWAL AND REQUEST THAT THE NOTATION RULING EXTENDING TIME TO FILE BRIEF BE VACATED</p>
--	---

**I. IDENTIFY OF PARTY**

Appellant, KEVIN M. YOUNG, hereby submits this Opposition to  
Notice of Withdrawal and Substitution; and Request that the  
Notation Ruling Extending Time to File until June 15, 2013 be  
vacated. Hauser & Allison (H&A) substituted in as the law firm of

record, thereby replacing Routh Crabtree & Olsen (RCO) in this matter. Appellant asserts and believes this to be a legal maneuver on the part of RCO to further prevent Appellant from discovering who RCO actually represented. Appellant had served and filed a Motion to Compel for RCO to provide an affidavit stating under penalty of perjury who they actually represented. To this date, RCO has never responded to Appellant's request, but continues in their attempt to deny Appellant due process of the law. Appellant asserts and believes that since RCO didn't respond to the Motion to Compel, now the onus is on H&A to provide an affidavit showing exactly who they actually represent.

#### **NOTABLE FACTS**

Appellant served a Motion to Compel Defendants' Attorneys To Submit An Affidavit To This Court Stating Whether Or Not They Are Representing The Holder In Due Course And The Creditor on RCO and to date he has received no response. Why is Appellant held to a standard that RCO is not held to. Why is everything that

Appellant says and does is held under penalty of perjury, but the same does not apply to RCO. Now another goliath, H&A, has stepped in. Appellant asserts and believes that since RCO blatantly disregarded the Motion to Compel then H&A should be responsible for providing an affidavit to the Appeals court stating who they represent. Did they represent the beneficiary in fact, the Servicer and/or debt collector? Plaintiff believes and asserts that RCO has relied on jurisdiction and maneuvering in the court which ultimately resulted in RCO withdrawing as attorneys of record for Respondent.

#### **RELEVANT FACTS**

Respondent was granted a default Judgment against Appellant. RCO/Plaintiff/Respondent served him with an “unfiled” Unlawful Detainer case. It had no case no when Defendant/Appellant was served. The Summons stated that Defendant/Appellant had five (5) days to respond. Appellant immediately responded to Plaintiff/Respondent’s UD complaint, however since there was no

believes it was forgery and furthermore it was transferred to a non-existent entity that had no license to do business in the State of Washington. Appellant has always contended, both in State Court Action and in this Honorable Court, that Respondent was non-existent. Appellant has discovered that Respondent, U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTR ADJUSTABLE RATE MORTGAGES TRUST 2007-1, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2007-1, has no registered agent in the State of Washington.

Attached hereto as Exhibit B, are true and correct copies of two (2) Washington Secretary of State Search Results showing that there were no matches for U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTR ADJUSTABLE RATE MORTGAGES TRUST 2007-1, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2007-1.

Herein again, Appellant has always asserted and believed that Respondent had no license to do business in the State of Washington. Appellant asserted that Respondent was not licensed

to business in the State of Washington in the state court action. Everyone just ignored him. Why are we even here? Why are they litigating this matter? More importantly why have they foreclosed on Appellant's property when they have absolutely no standing whatsoever? A foreign corporation must have authority to do business in the State of Washington. Pursuant to RCW23B.01.280(1)(2(a)) (4), a foreign corporation doing business in Washington is required to apply for a Certificate of Authorization: Certificate of Existence or Authorization

*(1) Any person may apply to the secretary of state to furnish a certificate of existence for a domestic corporation or a certificate of authorization for a foreign corporation.*

*(2) A certificate of existence or authorization means that as of the date of its issuance:*

*(a) The domestic corporation is duly incorporated under the laws of this state, or that the foreign corporation is authorized to transact business in this state;*

*(4) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in the*

*corporate form in this state. [1991 c 72 § 27; 1989 c 165 § 11*

The consequences of transacting business without authority in Washington State, pursuant to RCW23B.15.020 are as follows:

**(1) Unless it is otherwise authorized to transact business pursuant to a state or federal statute, a foreign corporation transacting business in this state without a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority.**

**(2) The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.**

**(3) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines**

**whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.**

**(4) A foreign corporation which transacts business in this state without a certificate of authority is liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this title upon such corporation had it applied for and received a certificate of authority to transact business in this state as required by this title and thereafter filed all reports required by this title, plus all penalties imposed by this title for failure to pay such fees.**

**(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or**

**prevent it from defending any proceeding in this state. [1990 c  
178 § 8; 1989 c 165 § 170.]**

Respondent has absolutely no standing to foreclose on Appellant's property. Pursuant to RCW 23B.15.020(1) Respondent has absolutely no standing to litigate this matter whatsoever or to bring a foreclosure action in the State of Washington, in any court, because it has no authorization to conduct business in this state. If it were an existing corporation then it would be registered with the Washington Secretary of State, and would be authorized to business in the State of Washington. Appellant believes Respondent intentionally reached into the State of Washington to do business without any authority, without paying taxes or any fees whatsoever to the Great State of Washington.

Appellant now understands why RCO never responded to his Motion to Compel Affidavit. Appellant believes had RCO done so it would have been revealed that Respondent had no authority or right to do business in the state of Washington and the entire

unlawful detainer would have been dismissed. It would have been revealed that Respondent is non-existent and had no vested interest in the loan nor the authority to enforce the loan and there would have been no trustee sale of Appellant's property. RCO refused to provide this information as if denying Appellant his due process would make Appellant just give up his Fourteenth Amendment rights. Appellant is not ignorant of Respondent, RCO and H&A's devices. They have continuously maneuvered through the court system in an attempt to deny Appellant due process under the law. Appellant hereby declares that "no weapon formed against him shall prosper." He believes it and he is standing on the Word.

## II. STATEMENT OF RELIEF SOUGHT

Appellant seeks the following relief:

- 1) The state court matter must be overturned and the unlawful detainer action against Appellant must be dismissed in its entirety with prejudice. Respondent is not the true beneficiary in fact of the subject

property nor is Respondent authorized to do business in the State of Washington , again, the unlawful detainer action must be dismissed in its entirety, with prejudice.

- 2) That Respondent's counsel, Hollister & Allison (H&A), be removed and barred from representing Respondent in this matter now or in any future legal actions that Respondent may bring against Appellant.
- 3) That this Honorable court set aside/vacate the illegal trustee sale of Appellant's property and that all rights of ownership be returned to Appellant;
- 4) That Respondent has no estate, right, title, lien or interest in, or to the real property, or any part of the property
- 5) That Appellant be granted permanent injunctive relief.

#### **JUDICIAL NOTICE**

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

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

b. In *Platsky v CIA*, 953 F.2d 26 (2<sup>nd</sup> Cir. 1991), the Circuit Court of Appeals allowed that the District Court should have explained to the litigant proceeding without a lawyer, the correct form to the plaintiff so that he could have amended his pleadings accordingly. Plaintiff respectfully reserves the right to amend A pro se plaintiff's pleadings and filings are liberally construed and are held to a less stringent standard than documents drafted by attorneys. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Hamilto v. Brown*, 630 F.3d 889, 893 (9th Cir. 2011). In evaluating a pro se plaintiff's "compliance with the technical rules of civil procedure,

we treat him with great leniency.” *Draper v. Coombs*, 792 F.2d 915, 924 (9th Cir. 1986).

c. Under the Federal Rules of Evidence 1002 and 1003 governing the admissibility of duplicates, any photocopies brought in as evidence are considered to be forgeries. It is unfair to admit a photocopy in the place of an original as there are information contained within the original that is not in a photocopy, specifically the only legally binding chain of title to the promissory note.

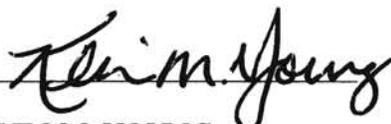
d. Under Uniform Commercial Code - ARTICLE 3 -§3-308, all signatures presented that is not on an original format (with the original wet ink signature) is hereby denied and is inadmissible.

### **CONCLUSION**

Appellant therefore respectfully requests the following:

- 1) that the notation ruling allowing Respondent an extension to file brief until June 15, 2013, be vacated; and that A&H should be disqualified from representing Respondent this action;
- 2) that the state court unlawful detainer action be dismissed against Appellant in its entirety with prejudice;
- 3) that this Honorable Court set aside/vacate the unlawful Trustee sale of Appellant's property and that and all rights of ownership be returned to Appellant;
- 4) that Respondent have no estate, right, title, lien or interest in or to the real property or any part of the property.
- 4) that Appellant be granted permanent injunctive relief.

Dated: 8/2/13

  
KEVIN M. YOUNG,  
*Defendant/Appellant, In Pro Se*

**EXHIBIT A**

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR  
KING COUNTY

U.S. BANK, NATIONAL ASSOCIATION  
AS TRUSTEE FOR MASTER  
ADJUSTABLE RATE MORTGAGES  
TRUST 2007-1, MORTGAGE PASS-  
THROUGH CERTIFICATES, SERIES  
2007-1,

Plaintiff,

vs.

BARBARA C. YOUNG & KEVIN M.  
YOUNG, Pro Per

Defendant(s)

NO. \_\_\_\_\_

**DECLARATION OF SERVICE**

STATE OF: WASHINGTON  
COUNTY OF: KING

The undersigned being first duly sworn on oath deposes and says. That I am now and at all times herein mentioned was a citizen of the United States and resident of the state of Washington, over the age of 18 years, not a party to or interested in the above entitled action and competent to be a witness therein. **That on the 25<sup>th</sup> day of April, 2012 @ 11:50 AM, at the address of: 13555 SE 36th St., Suite 300, Bellevue, WA 98006, within King County, I duly Served: A Defendant's Motion to Dismiss, in the above entitled action upon: U.S. BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR MASTER ADJUSTABLE RATE MORTGAGES TRUST 2007-1, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-1, c/o ROUTH, CRABTREE, OLSEN PS at their receiving window, by personally delivering 3 true and correct copies thereof and leaving the same with: Iaisha (No Last Name Given), (Desc: black female, early 30's, sitting about 250 with light brown hair).**

**I declare under penalty of perjury under the laws of the State of Washington that the foregoing is True and correct:**

\_\_\_\_\_  
Steven D. Hall  
Signed on April 25

**EXHIBIT B**

## Search Results

Retrieving Corporations Information...

There were no matches for "**us bank national association as trustee for mast adjustable rate mortgages trust 2007-1 mortgage pass-through certificates series 2007-1**".

« Start New Search

Neither the State of Washington nor any agency, officer, or employee of the State of Washington warrants the accuracy, reliability, or timeliness of any information in the Public Access System and shall not be liable for any losses caused by such reliance on the accuracy, reliability, or timeliness of such information. While every effort is made to ensure the accuracy of this information, portions may be incorrect or not current. Any person or entity who relies on information obtained from the System does so at his or her own risk.

All documents filed with the Corporations Division are considered public record.

## Search Apps on Mobile Devices



## All Corporations Data Download

Download the whole Corporations search database in XML format. Average file size is 70 Mb compressed, 750 Mb uncompressed.

## Search Results

Retrieving Corporations Information...

There were no matches for **"us bank national association as trustee for mastr adjustable rate mortgages trust 2007-1 mortgage pass-through certificates series 2007-1"**.

« Start New Search

Neither the State of Washington nor any agency, officer, or employee of the State of Washington warrants the accuracy, reliability, or timeliness of any information in the Public Access System and shall not be liable for any losses caused by such reliance on the accuracy, reliability, or timeliness of such information. While every effort is made to ensure the accuracy of this information, portions may be incorrect or not current. Any person or entity who relies on information obtained from the System does so at his or her own risk.

All documents filed with the Corporations Division are considered public record.

## Search Apps on Mobile Devices



## All Corporations Data Download

Download the whole Corporations search database in XML format. Average file size is 70 Mb compressed, 750 Mb uncompressed.

COURT OF APPEALS DIVISION 1  
STATE OF WASHINGTON  
2013 AUG -2 PM 3:19

No: 692046

COURT OF APPEALS, DIVISION 1  
OF THE STATE OF WASHINGTON

<p>KEVIN M. YOUNG,  Defendant/Appellant  v.  U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR MASTR ADJUSTABLE RATE MORTGAGES TRUST 2007-1, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2007-1;  Plaintiff/Respondent</p>	<p>CERTIFICATE OF SERVICE</p>
--	-------------------------------

I certify that on \_\_<sup>h</sup> day of August, 2013, I served a copy of the foregoing  
Opposition by the method indicated below on the following:

<p>Cara C. Christensen (SBN 43198) HOUSER &amp; ALLISON 800 Fifth Avenue, Ste 4100 Seattle, Washington 98104</p>	<p><input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Electronic Mail <input type="checkbox"/> Facsimile</p>
--	--

Dated this \_\_ day of August, 2013 .

BY: 