

RECEIVED
COURT OF APPEALS
DIVISION ONE
SEP 25 2014

#69194-5-I

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

SCOTT C TOWNLEY and STEPHANIE A TASHIRO-TOWNLEY,
Defendants/Appellants

vs.

BANK OF NEW YORK MELLON, f/k/a BANK OF NEW YORK,
TRUSTEE FOR CERTIFICATE HOLDERS CWABS, INC. ASSET BACKED CERTIFICATES, 2005-10,
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AND OCWEN LOAN SERVICING
LLC
Plaintiffs/Respondents

APPELLANTS' RESPONSE TO RESPONDENTS' SUPPLEMENTAL BRIEF

Appeal from King County Superior Court Case No: 12-2-06921-2 KNT
The Honorable LeRoy McCullough
The Honorable Hollis Hill

Stephanie A Tashiro-Townley
25437 167 Pl SE
Covington, WA 98042
(425) 413-2637
Defendant / Appellant

TABLE OF CONTENTS

I.	Correction of Respondents Statement of Case	1
II.	Argument:	
	A. Res judicata requisites are NOT met, even under misconstrued and fabricated data by Respondents	3
	B. Counter and Cross Complaint cites foundations of fraud and stand to void Respondents' claim to Townleys home; void title transfer and void their alleged claim of interest in the note—the facts show they are not proper parties in standing.	4
	C. Appellants' arguments stand consistent with Washington State's interpretation regarding waiver and failure to seek a stay; facts show a stay was sought and obtained	4
	Other Issues Addressed by Respondents	6
	D. Constitutional Issues Not Challenged by Respondents	7
	E. Respondents did not serve Appellants with Exhibits A or B	7

TABLE OF AUTHORITIES

CASES

McNaughton v. Brock WL 941956 Nos. 53880-2, 53681-8, Div I (April 25, 2005)	6
Bank of New York Mellon v. Muresan WL 171677 Nos. 70111-8, 70292-1, (April 28, 2014)	6

STATUTES

Uniform Commercial Code	5
Deed Trust Act, RCW 61.24 or RCW 61.24 et seq	6, 7
RCW 61.24.130(2)	6
RCW 59.12.130	7
Equal Protection Act	7
Right to a Jury Trial	7

I. Correction of Respondents Statement of Case

Respondents present incorrect data albeit in their referencing of the federal record or facts that stand contrary to the record. It is reasonable to submit the incorrect data presented by Respondents is designed to support arguments void of merit and, of course, improperly sway this Court.

The inconsistencies found in Respondent's Response are presented by referencing relevant parts of record and the submission of exhibits from the federal court record. Said exhibits are attached to a Declaration in Support of Appellants' Response (hereafter referred to as Dec in Support).

1. Respondents incorrectly state Nov. 16, 2010 as the filing date of Appellants' complaint. The complaint was originally filed/served on October 27, 2010. (Respondents' Supplemental Brief pg 1, LL 5-6) (See, attached Dec in Support, Exhibit 1)

2. Contrary to Respondents' stance regarding the issue of seeking a stay is the records of this case, which shows an express agreement between Appellants and Respondents to hold the sale. These facts show Appellant sought and obtained a hold of the sale (a stay documented by the letters). The facts further show, that contrary to the express agreement to hold the sale, Respondents acted unethical and improperly when they jerked said agreed hold without proper notice or timely opportunity afforded Appellants. Key is to note

the time frames the letters establish, which speaks to the egregious nature of Respondents actions. A reasonable person could define Respondents' actions, given the time lines, as deceptive. (See, Dec in Support, Exhibit 2)

3. Docket #68, in the Federal District Court #C10-1720 referenced by Respondents is the First Amended Complaint (See, Dec in Support, Exhibit 3).

4. Please note that Respondent Ocwen Loan Servicing is purchaser of Litton Loan.

5. Relevant to Respondents' res judicata argument is the fact the direct and corroborative evidence of fraud was discovered during the time frame of December 2011 through March 2012—this was 6 months after the Ninth Circuit Appeal was filed, which said appeal was filed on September 30, 2011. In other words, the time lines do not mess with Respondents pontifications—the facts of fraud were not discovery until later, as such were not part of the complaint; this fact stands contrary to Respondents' argument. (See, Ninth Circuit case #11-35819, Appellants' submit their Opening Brief; and See, Appellants' Supplemental Brief, Exhibit C) Appellants also submit their #11-35819 Reply brief showing no arguments of fraud were raised. It appears Respondents did not properly review the record or intentional hopes to improperly sway this Court. (See, Dec in Support, Exhibit 4)

6. In the instant appeal, Appellants brought (during unlawful detainer

action) a Counter and Cross Complaint on April 6, 2012 addressing right of possession using newly discovered facts of (direct evidence) of fraud worked on Appellants by Respondents. In addition, facts showed the use of fraudulent documents and a phony trust name (per Securities and Exchange Commission) designed to create the illusion of interest in a fraudulent note document where no interest affiliated with Respondents existed and stand undisputed. (CP 65 – Dec in Support of Resp to Motion for Writ of Restitution, Exhibits A-C)

II. ARGUMENT

A. Res judicata requisites are not met, even under misconstrued or fabricated data presented by Respondents

Factually there is no Second Amended Complaint in the record; docket #68 was First Amended Complaint. (See, Exhibit 3) Respondents' res judicata argument fails to address the finality factor; namely, this was a direct appeal. Facts supporting fraud claims were not presented because they were not discovered at the times Respondents claims they were presents. However, if they were relevant to their argument, the direct appeal aspects controls i.e. no mandate of finality is affiliated with the judgment.

The facts presented at the unlawful detainer action focused on ownership, improper invocation of foreclosure, etc., and support the merit of requesting a trial.

An inaccurate record cannot support an argument. Facts of fraud,

misrepresenting, (white collar crimes worked on Appellants) etc., allow remedy beyond statutory scope, which is proper, just and equitable; remedy rests in the province of a jury. No finality is connected to judgments in this case.

- B. Counter and Cross Complaint cites foundations of fraud and stand to void Respondents 'claim to Townleys home; void title transfer and void their alleged claim of interest in the note—the facts show they are not proper parties in standing.

A review of Appellant Townleys' Counter and Cross Complaint show foundation for their re-possession claim, etc.; to wit, Respondents never had a valid claim to pursue foreclosure and then eviction (See, CP16, pg 8, LL 14 to pg 9, LL 5; pg 9, LL12-17; pg 10, LL1 to pg 11, LL 7)

- C. Appellants' arguments stand consistent with Washington State's interpretation regarding waiver and failure to seek a stay; facts show a stay was sought and obtained

Current case law pertaining to the Deed of Trust Act (DTA) shows failure to seek judicial stay is not fatal to a homeowner's remedies (claims). This was argued, see, Appellants' Opening Brief pg 24, LL 7 through pg 31, LL16 and Appellants' Reply Brief pg 9, LL 8 through pg 15, LL 6.

Respondents again failed to review all the record. In Appellants' Answer and Affirmative Defenses letters were presented. The letters were sent by Respondents. The first letter, date November, 8, 2010, shows and confirms the agreement between Appellants and Respondents that the sale will be placed

69194-5-1 Appellants' Response to Respondents' Supplemental Brief

“on hold.” On November 30, 2010, without notice, opportunity, or discussion Respondents’ attorney stated the sale would go forth on December 4, 2010.

(See, CP 12, Exhibits A and B; Dec in Support, Exhibit 2)

The facts are clear. A reasonable person would construe Respondents acts were unethical, illegal, and designed to be deceptive. In other words, the 1st letter was designed to eliminate Appellants seeking judicial stay and it worked. Appellants, believed and rightfully so, they could seek other remedies given the sale was on hold. The letter is shows an express agreement between the parties the “sale is on hold”. These facts shows Appellants did obtain a stay—a hold of the sale and obtained said hold.

Under UCC (uniform commercial code) at least 10 days notice if required to change an express agreement. Notice is fundamental, yet, no proper notice was had here. Between mailing time (3 days) and the 10 days required to change an express agreement, the 3 days of notice (November 30, 2010 and sale date of December 3, 2010, show proper notice was ignored by Respondent.)

The point is Appellants did seek a stay and received a stay (a hold of the sale) which is the objective of any stay, that is to hold off the sale. The facts stand contrary to Respondents claims that Appellants did not act regarding the sale date. Relevant herein is the fact Appellants did not ignore

such matters and did in fact address holding the sale and did in fact obtain a hold of sale as the letter clearly shows.

The second letter dated November 30, 2010, pulling the hold of the sale scheduled on December 3rd, 2010, stands without question that Appellants did not have sufficient time to seek a stay. Plus, under RCW 61.24.130(2) one must seek a stay 5 days before sale.

Such acts by Respondents stand contrary to spirit, intent and purpose of ethical business entities. The recent expanding of statutory language of RCW 61.24 et seq., if applied retrospective to the particular facts here would reap benefits for Appellants.

Appellants acted in good faith and obtained a hold of the sale. Respondents did not act in good faith; as such, granting Respondents benefits for such actions is improper and contrary to fundamental principles of good faith and the express agreement presented. The letters were in the record and stand in support of showing Appellants did seek hold the sale, yet, were hoodwinked by Respondents.

OTHER ISSUES ADDRESSED BY RESPONDENTS

Respondents' arguments regarding the McNaughton and Muresan cases sit contrary to the cases, the correct procedural history and the facts of this particular case. Respondents are clearly asking this Court to rule contrary to

law.

D. Constitutional Issues Not Challenged by Respondents

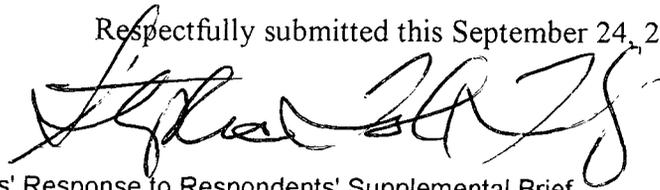
Respondents did not address the Constitutional Equal Protection Violation raised or the right to trial by jury trial, which said request for trial is also statutorily allowed per RCW 59.12.130.

Of note is the fact Appellants are individuals facing privileged entities doing business in Washington; whereas, facts form foundation showing the procedures that led to Respondents obtainment of the title to Appellants' home were improper and illegal. Most favorable, Respondents did not strictly comply with the DTA, which lead to their obtainment of the title to Appellants' home.

E. Respondents did not serve Appellants with Exhibits A or B

Respondents did not serve Appellants with their Exhibit A or B referred to in their Response. Appellants did not receive, as stated, a "true and correct" copies of the docket for C10-1720 (Federal District) or 11-35819 (Ninth Circuit). (See, Dec in Support, Exhibit 5) Note, Appellants herein file (and serve) a true and correct copies of the C10-1720 docket and 11-35819 docket. (See, Dec in Support, Exhibit 6)

Respectfully submitted this September 24, 2014.



3. Due to the many factual inconsistencies and misconstruing of the record found in the Respondents' Supplemental Brief, I am submitting the following exhibits to correct statements made by Respondents.
4. I filed the Verified Complaint on October 27, 2010 in Federal Court Case #C10-1720. (See, Exhibit 1, attached hereto, a true and correct copy of the first page of docket #1-1 showing the filing date of October 27, 2010)
5. I received two letters dated November 8, 2010: one from the attorney for Litton Loan and one from Litton Loan both stating that the foreclosure sale for the Subject Property is "on hold" due to the complaint. I received another letter from the attorney only dated November 30, 2010 stating the sale would continue on December 3, 2010.
6. I attached these letters to the Answers and Affirmative Defenses (CP 12, Exhibits A and B) in the record for this appellate review. I resubmit them for the convenience of the Court here. (See, Exhibit 2, attached hereto, true and correct copies of the two letters dated November 8th from the attorney representing Litton Loan and the letter dated November 30, 2010 from the attorney representing Litton Loan)
7. I have attached docket #68 from Federal District Court case #C10-1720 showing the correct name of the complaint is First Amended Complaint, which was the complaint appealed and the subject of the Ninth Circuit Appeal case #11-35819. (See, Exhibit 3, attached hereto, a true and correct copy of docket #68 from the Federal District Court case #C10-1720 named First Amended Complaint)
8. I have attached the Reply Brief filed in the Ninth Circuit Court of Appeals case #11-35819 to show that fraud and mortgage fraud were not included in the appeal. (See, Exhibit 4, attached hereto, a true and correct copy of Ninth Circuit Court case #11-35819 Reply Brief)
9. I received an email from Respondents on September 11, 2014 from Shawn K. Williams with an attachment to the email only containing the Respondents' Supplemental Brief. No additional attachments as in Exhibit A and Exhibit B were attached.
10. I received the package from UPS on or around September 12, 2014 with only a letter from Shawn K. Williams and the attached Respondents' Supplemental Brief. No exhibits were within the package.
11. I have attached copies of the email and the letter from Shawn K. Williams showing that no Exhibits were mentioned to have been sent. (See, Exhibit 5, attached hereto, true and correct copies of the email and letter)
12. I have attached the true and correct docket's for the Federal District Court Case #C10-1720 and the Ninth Circuit Court of Appeals review #11-35819. (See, Exhibit 6, true and correct copies of the dockets for case #C10-1720 and #11-35819)

Signed on 24th of September 2014 in King County by:


Stephanie Tashiro-Townley

Exhibit 1



10-CV-01720-CMP

FILED
LOGGED
ENTERED
RECEIVED
2010 LK
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

STEPHANIE A. TASHIRO-TOWNLEY AND
SCOTT C. TOWNLEY, husband and wife,

PLAINTIFF,

v.

THE BANK OF NEW YORK MELLON F/K/A
THE BANK OF NEW YORK AS TRUSTEE
FOR THE CERTIFICATEHOLDERS CWL,
INC. ASSET BACKED CERTIFICATES,
SERIES 2005-10,

DEFENDANT.

No. **C10-1720 JCC**

COMPLAINT FOR DAMAGES &
VERIFIED COMPLAINT FOR
QUIET TITLE

JURY TRIAL DEMANDED

The undersigned Complainants, STEPHANIE A. TASHIRO-TOWNLEY AND SCOTT C. TOWNLEY, husband and wife, hereinafter "Plaintiffs", HEREBY states that Plaintiffs are of legal age and competent to state on belief and personal knowledge the facts set forth herein as duly noted below are true, correct, complete and presented in good faith in the form of VERIFIED COMPLAINT FOR QUIET TITLE regarding a claim of THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS CWL, INC. ASSET

COMPLAINT FOR DAMAGES &
VERIFIED COMPLAINT
FOR QUIET TITLE

Stephanie A. Tashiro-Townley, Plaintiff
Scott C. Townley, Plaintiff
23639 SE 267th Place
Maple Valley, WA 98038

Handwritten notes on the left margin, including "FF" and "22".

Exhibit 2



13555 SE 36th St., Suite 300
Bellevue, WA 98006

Telephone: 425.458.2121
Fax: 425.458.2131
www.rcolegal.com

Joshua Schaer
Attorney
Telephone: 425.457.7810
Fax: 425.974.8680
jschaer@rcolegal.com

November 8, 2010

Stephanie Tashiro-Townley & Scott Townley
23639 Southeast 267th Place
Maple Valley, WA 98038

Dear Mr. and Mrs. Townley:

Please be advised that Routh Crabtree Olsen, P.S. has been hired to represent Litton Loan Servicing LP in the lawsuit you filed with the Western District Court of Washington (Case No. C10-1720).

Currently, the foreclosure action on the above-mentioned property has been placed on hold. For a status update, you may check with my office, or visit www.usa-foreclosure.com, as to whether the property is scheduled for sale.

I would again strongly advise you to consult legal counsel regarding your options. Please forward all future correspondence to my attention. If you have any questions, feel free to contact me directly.

Sincerely,

ROUTH CRABTREE OLSEN, P.S.

By: 
Joshua Schaer
Attorney at Law

November 8, 2010

Stephanie Tashiro-Townley
Scott Townley
23639 Southeast 267th Place
Maple Valley, WA 98038-5836

Re: Loan Number: 19375299
Property: 23639 Southeast 267th Place
Maple Valley, WA 98038

Dear Stephanie Tashiro-Townley and Scott Townley:

Thank you for your correspondence received on October 27, 2010, regarding the referenced loan.

Please be advised that Routh Crabtree Olsen, P.S. has been hired to represent Litton Loan Servicing LP in the lawsuit you filed with the Western District Court of Washington (Case Number C10-1723).

Currently, the foreclosure active on the above referenced property has been placed on hold. For a status update, we respectfully request that you contact Routh Crabtree Olsen, P.S. at (425) 457-7810, or visit www.usa-foreclosure.com.

Should you have further questions, please contact our Bankruptcy Department at (866) 326-5235.

Sincerely,

Bankruptcy Department:

IF YOU ARE NOT OBLIGATED ON THE DEBT OR IF THE DEBT HAS BEEN DISCHARGED IN A BANKRUPTCY PROCEEDING, THIS IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT AN ATTEMPT TO ASSESS OR COLLECT THE DEBT FROM YOU PERSONALLY.



13555 SE 36th St., Suite 300
Bellevue, WA 98006

Telephone: 425.458.2121
Fax: 425.458.2131
www.rcolegal.com

Joshua Schaer
Attorney
Telephone: 425.457.7810
Fax: 425.974.8680
jschaer@rcolegal.com

November 30, 2010

Stephanie Tashiro-Townley & Scott Townley
23639 Southeast 267th Place
Maple Valley, WA 98038

Dear Mr. and Mrs. Townley:

Please be advised that a lis pendens is not a legally proper means of restraining a trustee's sale. I had previously recommended that you seek counsel, who might have provided relevant expertise concerning the Deed of Trust Act (RCW 61.24). I also asked you to contact me directly to discuss the availability of alternatives to foreclosure.

However, it appears you have chosen to continue representing yourselves, and you have not been amenable to a productive conversation. Your threats against this firm and the trustee are not well-taken in light of your ineffective attempt to prevent the property sale. Additional claims will be met with responsive motions, and we reserve the right to pursue sanctions, attorneys' fees, or other permissible remedies.

My letter dated November 8, 2010 was correct – the file was on hold at that time, and you were invited to check back for a status update. Subsequently, the trustee was instructed to proceed again with foreclosure activities. Currently, the sale is scheduled for December 3, 2010. The website usa-foreclosure.com can provide you with information should that date change.

If you have other questions, feel free to contact me directly.

Sincerely,

ROUTH CRABTREE OLSEN, P.S.

By: 
Joshua Schaer
Attorney at Law

Exhibit 3

1 John A. Sterbick
2 Law Offices of John Sterbick
3 1010 S I Street
4 Tacoma, WA 98405
5 253-383-0140
6 Fax: 253-383-8374

THE HONORABLE JOH C. COUGHENOUR

7
8 **UNITED STATES DISTRICT COURT**
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 STEPHANIE A. TASHIRO-TOWNLEY)
10 and SCOTT C. TOWNLEY, as husband)
11 and wife)

Plaintiffs,

v.

12 BANK OF NEW YORK MELLON f/k/a)
13 BANK OF NEW YORK AS TRUSTEE)
14 FOR CERTIFICATEHOLDERS CWL,)
15 NC. 2005-10; MORTGAGE ELECTRONIC)
16 REGISTRATION SYSTEMS, INC.; and)
17 DOES 1-100)

18 Defendants.

Case No.: 2:10-CV-01720-JCC

**FIRST AMENDED
COMPLAINT FOR
DECLARATORY
RELIEF, INJUNCTIVE RELIEF,
VIOLATIONS OF THE
CONSUMER
PROTECTION ACT, AND
OTHER RELIEF**

19 Plaintiffs, STEPHANIE A. TASHIRO-TOWNLEY and SCOTT C. TOWNLEY,
20 through undersigned counsel and pursuant to prior Orders of this Court granting Plaintiffs'
21 Motion for Leave to Amend Complaint, sue Defendants BANK OF NEW YORK
22 MELLON f/k/a BANK OF NEW YORK AS TRUSTEE FOR CERTIFICATEHOLDERS
23 CWL, INC. 2005-10, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
24
25
26

AMENDED COMPLAINT

LAW OFFICES OF JOHN A. STERBICK
1010 S. I STREET
TACOMA, WA 98405
TELEPHONE (253) 383-0140 • FACSIMILE (253) 383-8374

1 and DOES 1-100 for declaratory relief, injunctive relief, violations of the Consumer
2 Protection Act, and other relief, and state:

3 **A. Parties and Jurisdiction**

- 4 1. This is an action for declaratory, injunctive, violations of the Consumer
5 Protection Act, and other relief which is properly within the jurisdiction of this
6 Court as provided by applicable statutes and rules of court.
- 7
- 8 2. Plaintiff STEPHANIE A. TASHIRO-TOWNLEY is and was at all times
9 material hereto a *sui juris* citizen and resident of the State of Washington who
10 was one of the legal owners of residential real property the subject of this
11 action. (hereafter the "Property").
- 12
- 13 3. Plaintiff SCOTT C. TOWNLEY is and was at all times material hereto a *sui*
14 *juris* citizen and resident of the State of Washington who was one of the legal
15 owners of Property.
- 16 4. Defendant BANK OF NEW YORK MELLON f/k/a BANK OF NEW YORK
17 AS TRUSTEE FOR CERTIFICATEHOLDERS OF CWL, INC. 2005-10
18 (hereafter "BONYTE") is and was at all times material hereto a Wall Street
19 bank which purported to act as a "trustee" of a securitized mortgage loan trust
20 (that being CWL, INC. 2005-10, hereafter the "Trust") which was formed
21 incident to the marketing and sale of a series of mortgage-backed securities
22 (the "certificates", series 2005-10) which securities were collateralized, in part,
23 by the Trust which itself purported to hold myriad mortgage loans which had
24 been sold and resold from the originating lender to one or more third parties
25
26

1 for the purposes of aggregating the loans for further placement within one or
2 more tranches within the Trust.

3 5. Defendant MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

4 (hereafter "MERS") is and was at all times material hereto an entity which
5 electronically tracked the transfer of mortgage loans. Pursuant to Defendant
6 MERS' own Terms and Conditions, the MERS system may not be used to
7 either create or transfer interests in mortgage loans, and pursuant to admissions
8 of Defendant MERS' own counsel set forth in published decisions, Defendant
9 MERS does not own mortgage loans, does not extend credit, does not collect
10 mortgage loan payments, and has no ownership interest in mortgage loans.

11 6. Defendants DOES 1-100 are named for purposes of adding any additional
12 Defendants as this litigation progresses and as a result of matters which may be
13 revealed in formal discovery.

14 7. Jurisdiction and venue are proper in this Court as the Property is situate within
15 the jurisdiction of this Court and as there is complete diversity pursuant to 28
16 USC sec.1332, and this Court is permitted to adjudicate the state law claims
17 pursuant to pendent/supplemental jurisdiction.

18 **B. Material Facts Common to All Counts**

19 8. Plaintiffs previously purchased the Property, having executed a deed of trust
20 and Note in connection therewith in favor of non-party Countrywide Home
21 Loans on or about July 26, 2005.

1 9. The CWL, Inc. 2005-10 securitized mortgage loan trust was formed in 2005
2 and, pursuant to the Pooling & Servicing Agreement (hereafter "PSA") which
3 governed the terms, conditions, and restrictions as to conveyance of mortgage
4 loans into the Trust, provided that all loans to be conveyed to the trust be so
5 conveyed through a series of explicit procedures, including an unbroken chain
6 of indorsements as to the note from the original lender to the Seller to the
7 Depositor to the Trustee, and an unbroken chain of assignments in recordable
8 form from the originating lender to the Seller to the Depositor to the Trustee.
9 Defendants BOYNTE and MERS have not provided any evidence of
10 compliance with these express conditions of conveyance.
11

12 10. The provisions of the Trust also provide that all such mortgage loans to be
13 conveyed to the Trust be so conveyed by the Closing Date (or, at the latest, the
14 Delay Delivery date, which is shortly after the Closing Date) in order for the
15 transfers to be legal and proper pursuant not only to the trust documents, but
16 also pursuant to the laws, rules, and regulations of the Securities and Exchange
17 Commission and the "true sale" provisions of IRS Rule 860.
18

19 11. The provisions of the trust also preclude the transfer or assignment of non-
20 performing or defaulted (a/k/a "toxic") loans into the Trust.
21

22 12. As admitted by Defendants BOYNTE and MERS in their various filings in
23 this action, Defendant MERS purported to transfer, by assignment, the
24 mortgage loan the subject of this action to Defendant BONYTE on July 17,
25 2009, which was approximately four (4) years after the Closing Date of the
26

1 Trust, which is legally impermissible rendering the purported assignment void
2 as a matter of law, rule, and regulation.

3 13. As such, any further action by Defendant BONY in attempting to appoint a
4 successor trustee was null, void, and without any legal authority as well, and thus
5 any purported attempt by the alleged "successor trustee" to schedule a foreclosure
6 sale was without legal authority and was itself null and void.
7

8 14. Defendants BOYNTE and MERS have also admitted, in their various filings in
9 this action, that Plaintiffs were claimed to be in default on the loan as of July 8,
10 2009, and as such, the loan, which was toxic as of that date, could not, as a matter
11 of laws, rules, and regulations, be transferred to the Trust, and Defendants'
12 purported attempt to do so was void at inception and thus of no force or effect.
13

14 15. Further, the attempted assignment was by Defendant MERS which was not the
15 originating lender and never had any interest in the Note, was never the
16 "beneficiary", and could not, as a matter of its own self-imposed limitations, either
17 create an interest in the note or transfer such non-existent interest, and as it could
18 not transfer any such non-existent interest in the note, it also could not transfer the
19 security instrument (the Deed of Trust) incident to the note.
20

21 16. RCW 61.24.040(1)(b)(i) requires that a party seeking to foreclose a deed of trust
22 against a borrower both record a notice, in the form described in RCW
23 61.24.040(1)(f), in the office of the auditor of each county in which the deed of
24 trust is recorded and to serve, at least ninety (90) days before the trustee's sale by
25 both first-class and either certified or registered mail, return receipt requested, a
26

1 copy of the notice of sale upon the borrower. Said notice is required by statute in
2 order to afford the borrower the opportunity to exercise their rights to challenge
3 the sale.

4 17. Defendants BONYTE and MERS have admitted, in their filings in this matter,
5 that their agent Northwest Trustee's Services recorded its Amended Notice of
6 Trustee's Sale on September 14, 2010, and conducted a Trustee's Sale on
7 December 3, 2010, which is less than 90 days after the Notice was recorded thus
8 constituting an absolute violation of RCW 61.24.040.

9
10 18. Further, Defendants BOYNTE and MERS have admitted that Plaintiffs filed their
11 original action (which challenged, albeit in inartful *pro se* form, the foreclosure
12 sale which had not yet occurred) on November 16, 2010.

13
14 19. Defendants BOYNTE and MERS engaged in their improper and unlawful actions
15 for the sole and express purpose of manufacturing an alleged waiver by the
16 Plaintiffs of their rights to challenge the sale and forfeit their rights to assert such
17 challenge, which requires a lawsuit to restrain the sale to be filed prior to the sale
18 pursuant to 61.24.130.

19
20 **COUNT I: DECLARATORY RELIEF**

21 20. Plaintiffs re-allege and reaffirm paragraphs 1 through 19 hereinabove as if set
22 forth more fully hereinbelow.

23 21. This is an action for declaratory relief which is brought pursuant to RCW 7.24 and
24 CR 57.

1 22. Pursuant to RCW 7.24.010, this Court has the power and authority to declare
2 rights, status, and other legal relations whether or not further relief is or could be
3 claimed.

4 23. RCW 7.24.120 provides that the chapter is declared to be remedial and its purpose
5 to settle and afford relief from uncertainty and insecurity with respect to rights,
6 status, and other legal relations, and is to be liberally construed and administered.

7 24. Plaintiff and Defendants BOYNTE and MERS are "persons" within the meaning
8 of RCW 7.24.130.

9 25. RCW 7.24.020 expressly provides that a person interested under a deed, will,
10 written contract or other writings constituting a contract or whose rights, status, or
11 other legal relations are affected by a statute, municipal ordinance, contract or
12 franchise, may have determined any question of construction or validity arising
13 under the instrument, statute, ordinance, contract, or franchise and obtain a
14 declaration of rights, status, or other legal relations thereunder.
15

16 26. Plaintiffs are persons who have an interest under a deed to the Property and whose
17 rights and status have been affected by the Defendant BOYNTE's and Defendant
18 MERS' violations of and noncompliance with RCW 61.24.040. Plaintiffs are thus
19 entitled to have determined the question of their rights and status as to the Property
20 and obtain a declaration of rights and status.
21

22 27. RCW 7.24.050 provides that the enumeration in RCW 7.24.020 and .030 does not
23 limit or restrict the exercise of the general powers conferred in RCW 7.24.010 in
24 any proceeding where declaratory relief is sought.
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

28. Plaintiffs have requested further relief in the form of injunctive and other relief. RCW 7.24.080 provides that further relief based on a declaratory judgment or decree may be granted whenever necessary or proper, and that the application for such relief shall be made to a court having jurisdiction to grant the relief. This Court has such jurisdiction pursuant to the doctrine of pendent or supplemental jurisdiction.

29. RCW 7.24.190 provides that the court, in its discretion and upon such conditions and with or without such bond or other security as it deems necessary and proper, may stay any ruling, order, or any other court proceedings and may restrain all parties involved in order to secure the benefits and preserve and protect the rights of all parties to the court proceedings.

30. As set forth above, Plaintiffs' rights and legal status as to the Property have been affected by Defendant BOYNTE's and Defendant MERS' intentional and express violations of RCW 61.24.040, which has resulted in the Property being wrongfully and illegally foreclosed and wrongfully and illegally transferred to Defendant BOYNTE.

31. Plaintiffs thus requests that this Court issue and decree that the foreclosure sale initiated and conducted by Defendants BOYNTE and MERS was illegal, improper, and unlawful and that such sale be hereby rescinded and declared to be null, void, and of no force or effect. As Defendants BOYNTE and MERS never had any legal or other authority to engage in their actions *ab initio*, the entire foreclosure and sale process was void and illegal, and thus said Defendants cannot

1 be permitted to assert any alleged "waiver" by Plaintiffs especially as said
2 Defendants have admitted that Plaintiffs filed their original action prior to the sale.

3 32. As Defendant BOYNTE is presumably intending to sell or convey the Property
4 which was wrongfully acquired by said Defendant, Plaintiffs requests that this
5 Court enjoin any such sale or conveyance.
6

7 33. As Defendant BOYNTE wrongfully acquired title to the Property in express and
8 deliberate violation of RCW 61.24.040 and as said Defendant willfully and
9 intentionally violated the Statute for the express purpose of manufacturing an
10 alleged waiver of Plaintiffs' rights to challenge the sale, no bond should be
11 required of Plaintiffs as a precondition of the requested relief being granted, and as
12 Defendant BOYNTE was never the original lender and is owed no monies from
13 Plaintiffs, Plaintiffs should not be required to make any deposits into the registry
14 of the Court pending the full disposition of this action on the merits, and as such
15 requirement would frustrate the very relief requested herein.
16

17 WHEREFORE, Plaintiffs request that this Court enter a decree that the foreclosure
18 sale conducted by Defendant BOYNTE and MERS was illegal, improper, and unlawful; that
19 the subject foreclosure sale is void and of no force and effect; and that all post-sale
20 proceedings be enjoined pending the final disposition of this action for the reasons set forth,
21 and for any other and further relief which is just and proper including any attorneys' fees and
22 costs as permitted or provided by law.
23
24
25
26

COUNT II: INJUNCTIVE RELIEF

1
2 34. Plaintiffs re-allege and reaffirm paragraphs 1 through 19 hereinabove as if set
3 forth more fully herein below.

4 35. This is an action for injunctive relief which is brought pursuant to RCW 7.40 and
5 CR 65.

6
7 36. RCW 7.40.020 provides in pertinent part that when it appears by the complaint
8 that the plaintiff is entitled to the relief demanded and the relief, or any part
9 thereof, consists in restraining the commission or continuance of some act, the
10 commission or continuance of which during the litigation would produce great
11 injury to the plaintiff; or when during the litigation, it appears that the defendant is
12 doing, or threatened, or is about to do, or is procuring, or is suffering some act to
13 be done in violation of the plaintiff's rights respecting the subject of the action, or
14 where such relief, or any part thereof, consists in restraining proceedings upon any
15 final order or judgment, an injunction may be granted to restrain such act or
16 proceedings until the further order of the court.

17
18 37. As set forth above, Defendant BOYNTE illegally "acquired" the Property and is
19 continuing with its possession of the wrongfully acquired property which was
20 acquired in violation of the trustee's sale Statute and violation of the Plaintiffs'
21 rights pursuant to said Statute.

22
23 38. Plaintiffs thus have a clear legal right to seek the issuance of injunctive relief.
24
25
26

1 39. Plaintiffs have no adequate remedy at law to redress the irreparable harm which
2 will ensue from the wrongful disposition of their real property if the relief
3 requested herein is not granted.

4 40. The relief requested by Plaintiffs is in the public interest.

5 41. Under the circumstances where Defendant BOYNTE has intentionally violated
6 Washington Statutory law for the express purpose of wrongfully acquiring the
7 Plaintiffs' real property with the specific intent to profit from such wrongful
8 conduct, no bond should be required of Plaintiffs as a precondition to the granting
9 of the relief requested herein; where Defendant BOYNTE was never the
10 originating lender and is owed no money from Plaintiffs; and where the imposition
11 of any significant bond would frustrate the relief requested herein.
12
13

14
15 WHEREFORE, Plaintiffs requests that this Court immediately issue an injunction
16 precluding Defendant BOYNTE from continuing with any proceedings to secure possession
17 of the Property and to enjoin any disposition of the Property pending the disposition of this
18 action for the reasons set forth, and for any other and further relief which is just and proper
19 under the circumstances including any attorneys' fees and costs as permitted or provided by
20 law.
21

22 **COUNT III: VIOLATIONS OF CONSUMER PROTECTION ACT**

23 42. Plaintiff re-alleges and reaffirms paragraphs 1 through 19 hereinabove as if set
24 forth more fully herein below.
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

43. This is an action for violations of the Washington Consumer Protection Act, RCW 19.86.010 *et seq.*

44. Plaintiff and Defendants MERS and BOYNTE are “persons” within the scope of RCW 19.86.010(1).

45. The transaction the subject of this action involves “trade and commerce” within the meaning of RCW 19.86.010(2).

46. The residential real property the subject of this action is an “asset” within the meaning of RCW 19.86.010(3).

47. The actions and conduct of Defendants BOYNTE and MERS as set forth above wherein said Defendants intentionally violated RCW 61.24.040 to the detriment and damage of the property of the Plaintiffs constitutes an unfair and deceptive act and practice in the conduct of trade or commerce within the meaning of RCW 19.86.020.

48. The actions and conduct of Defendants BOYNTE and MERS as set forth above also constitutes an unfair and deceptive act and practice pursuant to RCW 61.24.135.

49. Pursuant to RCW 19.86.090, Plaintiffs are thus entitled to bring this action for violations of the Consumer Protection Act to enjoin further violations; to recover actual damages sustained; and costs of suit including reasonable attorneys’ fees against Defendants BOYNTE and MERS.

50. Under the circumstances where Defendants BOYNTE and MERS intentionally, willfully, and wantonly violated RCW 61.24.040 in an apparent attempt to steal

1 the Plaintiffs' real property and such intent was coupled with an intent
2 manufacture an alleged waiver of said right, Plaintiffs requests that this Court,
3 pursuant to RCW 19.86.090, award threefold actual damages as provided by the
4 Statute.

5
6 WHEREFORE, Plaintiffs request that this Court grant the relief requested herein for
7 the reasons set forth including enjoining further violations of the Consumer Protection Act by
8 Defendants BOYNTE and MERS; an award of actual damages or threefold actual damages as
9 provided by the Statute together with costs of suit, attorneys' fees, and any other and further
10 relief which is just and proper under the circumstances.

11
12 DEMAND FOR JURY TRIAL

13 Plaintiff demands trial by jury of all matters so triable as a matter of right and pursuant
14 to law.

15 DATED THIS 25th DAY OF MARCH, 2011.

16
17
18 W. Jeff Barnes, Esq.
19 (*counsel to seek admission PHV*)
20 W. J. Barnes, P.A.
21 2901 West Coast Hwy., Suite 300
22 Newport Beach, California 92663
23 Telephone: (949) 270-7413
24 Fax: (949) 270-7414

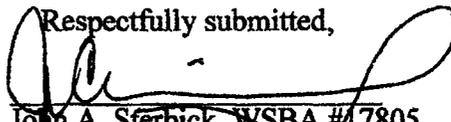
17 Respectfully submitted,
18 
19 John A. Sterbick, WSBA #17805
20 Local Counsel for Plaintiff

Exhibit 4

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Appeal No. 11-35819
WWD Case No. C10-1720

SCOTT C TOWNLEY
STEPHANIE A TASHIRO-TOWNLEY,
Appellants

vs

THE BANK OF NEW YORK MELLON, MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC. (MERS) AND LITTON LOAN SERVICING
Appellees

Appeal from the United States District Court of Western Washington

Appellants' Reply Brief to Appellees' Brief

SCOTT C TOWNLEY
STEPHANIE A TASHIRO-TOWNLEY
25437 167 Pl SE
Covington, WA 98042
Tel. 425-413-2637

Dated: January 3, 2013

TABLE OF CONTENTS

Table of Authorities (Cases, Statutes and other authorities)	iii
Statement of Appellate Jurisdiction	
1	
Statement of Issues Presented For Review	
1	
Statement of the Case	1
Statement of the Facts	2
Summary of Argument	4
I. POST SALE RELIEF PROVIDED IN RECENT WASHINGTON STATE SUPREME COURT CASES ESPECIALLY IN THE LIGHT OF VOIDABLE ASSIGNMENT OF DEED OF TRUST SIGNED BY MERS (BASED ON RECENT BAIN DECISION)	
II. LITTON LOAN ARGUMENT NOT MADE IN COLD RECORD AND CANNOT BE BROUGHT UP FOR FIRST TIME IN AN APPEAL	
III. FACTS WITHIN EXCERPTS OF RECORD SUBMITTED ARE RELEVANT TO DISMISSAL DUE TO NEW RULING REGARDING MERS AND SHOWS CONSISTENT OBJECTION AND CONTEST TO FORECLOSURE	
IV. WASHINGTON CONSUMER PROTECTION CLAIMS STILL EXIST IN CASE ESPECIALLY DUE TO MERS AND MISLEADING LETTERS	
Conclusion / Relief Requested	
15	
Certifications	15

TABLE OF AUTHORITIES

Caselaw	Page
<i>Bain or Bain v. Metropolitan Mortg. Group. Inc.</i> , 285 P.3d 34 (Wash.2012)	4, 6, 7, 10, 12, 13, 15
<i>Albice or Albice v. Premier Mortg. Servs. of Wash., Inc.</i> , 174 Wn2d 560, 569, 276 P.3d 1277 (2012)	4, 8, 9, 10, 15
<i>Cox v. Helenius</i> , 103 Wn.2d 383, 693 P.2d 683 (1985)	7
<i>Udall v. T.D. Escrow Servs., Inc.</i> , 159 Wn.2d 903, 914, 154 P.3d 882 (2007)	8, 9
<i>Queen City Sav. & Loan Ass'n v. Mannhalt</i> , 111 Wn.2d 503, 514, 760 P.2d 350 (1988) (Dore, J., dissenting)	8
<i>Koegel v. Prudential Mut. Sav. Bank</i> , 51 Wn. App. 108, 111, 752 P.2d 385, review denied, 111 Wn.2d 1004 (1988)	8
<i>Haines v. Kerner</i> , <i>Haines v. Kerner</i> - 404 U.S. 519 (1972)	10
<i>United States v. Carlson</i> , 900 F.2d 1346, 1349 (9th Cir.1990).	11
<i>Massey v. BAC Home Loans Servicing</i> , Case No. C12-1314JLR, Dist. Court, WD Washington 2012	13, 14, 15
<i>Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.</i> , 105 Wn.2d 778 at 780, 719 P.2d 531 (1986)	12, 13
<i>Burkart v. Mortgage Elec. Registration Sys., Inc.</i> , C11-1921RAJ, 2012 WL 4479577, at *4 (W.D. Wash. Sept. 28, 2012)	13
Statutes	Page
28 U.S.C. Sec. 158	1
RCW 61.24.005(2)	6
RCW 61.24.040(2)	2, 7
RCW 61.24 et seq or RCW 61.24 or Deed of Trust or DTA	5, 8, 13, 14
RCW 61.24.040(1)(b)(i)	8
RCW 61.24.030(6)(j)	7
RCW 61.24.020(2)	7
RCW 61.24.130	7
RCW 61.24.050	9
RCW 61.24.040	7, 8, 9
RCW 61.24.040(1)(f)	9
RCW 19.86 or Washington Consumer Protection Act or WCPA	6, 13, 15
RCW 19.86.031(9)	12
CR 60	5
RCW 19.86.20	12
Clean Hands Doctrine	10
UCC	14
FRAP 32	15

STATEMENT OF APPELLATE JURISDICTION

The United States Appeals Court of the Ninth Circuit has jurisdiction to review the Order Denying the Reconsideration (Excerpt of the Record (EOR), Tab 14, CP # 90) of the Order of Dismissal and Judgment filed on June 29, 2011 (EOR, Tab 14, CP #90), the Order Denying Reconsideration was filed on September 23, 2011. The Ninth Circuit Court of Appeals has jurisdiction to review this appeal according to 28 U.S.C. Sec. 158. Appellants request a "de novo" review of the facts and pleadings in this case.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Did the Court err when ordering a dismissal of the Federal District Case on the grounds the foreclosure was proper and alleging Appellants waived defenses while stating that Appellants filed a complaint and served it to the trustee as well seven days prior to the first foreclosure date?
2. Did the Court error in its understanding (or ignore) of the strict compliance requirement of RCW 61.24 and the facts in the record showing irregularities within the application of RCW 61.24 et seq?
3. Did the cumulative effect of these errors result in the wrongful dismissal of this case?

STATEMENT OF THE CASE

On October 22, 2010, Townleys filed a complaint in US District Court of Western Washington under case #C10-1720 one week prior to the October 29, 2010 foreclosure sale; thus, contesting the sale per RCW 61.24.040(2). In order to inform the Trustee, Townleys also had an independent party serve Northwest Trustee. Townleys did all of this to show they were not waiving any defenses regarding the foreclosure on the subject property at 23639 SE 267th Place, Maple Valley, WA 98038. The sale was postponed. (SEOR, Tab 1, CP #70, Exhibit 7)

Bank of New York Mellon's attorney (hereafter known as BONYM) filed a Notice of Appearance on November 3, 2010. The Townleys received two letters on November 8, 2010 from Litton Loan Servicing (hereafter LITTON) and BONYM stating that the foreclosure sale was on hold. BONYM filed a

motion to dismiss the complaint on November 18, 2010 referencing an Exhibit 6 "Beneficiary Declaration". No such exhibit or any exhibits supporting the motion to dismiss, were filed in the cold record by Defendants. Townleys filed a Judicial Notice regarding the absence of the exhibit on December 9, 2010. Townleys understood that "Beneficiary Declaration" is required by the strict statutory language of RCW 61.24.031(9), found in the Deed Trust Act of Washington State (hereafter referred to as Revised Code of Washington, RCW 61.24 et seq).

Townleys filed a Lis Pendens on the property communicating in good faith that the property is in litigation which was faxed to BONYM and the trustee, Northwest Trustee on November 30, 2010. BONYM emailed and then sent a letter to Townleys stating that the sale would go through as scheduled on December 3, 2010. The property was reverted back to the bank on December 3, 2010 and a Trustee's Deed was dated December 4, 2010. Townleys have maintained since the very first complaint that BONYM is not the noteholder and that BONYM improperly commenced foreclosure.

STATEMENT OF THE FACTS

Townleys received an unsigned Notice of Default from Northwest Trustee dated July 8, 2009 on our garage door (SEOR, Tab 1, CP #70, Exhibit 3). This was the first time Townleys had knowledge of any entity other than Countrywide, the original Note Holder, had affiliation with the property. The Notice of Default also stated BONYM is a trustee for trust named CWL, Inc. Asset Backed Certificates, Series 2005-10. No contact information for the trust or BONYM was provided for purposes of contact.

Townleys received a copy of the Deed of Trust stating MERS as the beneficiary of the Deed of Trust (SEOR, Tab 1, CP #70, Exhibit 2), Assignment of Deed of Trust (SEOR, Tab 1, CP #70, Exhibit 4), and

Appointment of Successor Trustee (SEOR, Tab 1, CP #70, Exhibit 5).

Assignment of Deed of Trust, assigning the mortgage from MERS to BONYM was dated July 17, 2009, signed by Denise Bailey and filed in King County Records on July 24, 2009. (SEOR, Tab 1, CP #70, Exhibit 4)

In order to avoid the foreclosure sale, Townleys filed for Chapter 13 bankruptcy protection in November 2009. The Chapter 13 case was dismissed in August 2010 without order of Judge Overstreet being addressed by that bankruptcy trial court. An Amended Trustee Sale document was filed on or about September 14, 2010. The sale date stated was October 29, 2010 but was postponed prior to the sale. (SEOR, Tab 1, CP #70, Exhibit 6 and 7). Townleys filed a complaint in person with the Federal District Court on October 22, 2010 with an application to proceed **informa pauperis** (IFP). (EOR, Tab 1, CP #10) The complaint was filed on October 22nd in order to be seven days prior to the October 29th sale date. The IFP was approved and the complaint entered into the record on November 16, 2010. BONYM filed a Motion to Dismiss the Complaint. (EOR, Tab 2, CP #11)

The sale date was moved to December 3, 2010, **less than 90 days** after the Amended Notice of Sale as shown in the Trustees Deed. (SEOR, Tab 1, CP #70, Exhibit 8). On December 3, 2010, Townleys talked with the auctioneer and informed all investors on site that we were contesting the sale. Townleys also went up to speak with Jeff Stedman of Northwest Trustee to serve him with a request for documentation and to remind him of our contest of the sale found within the US District Court complaint. He acknowledged the complaint but did not stop the sale. On December 7, 2010, Townleys filed an Amended Complaint naming Litton Loan (hereafter known as LITTON) and Mortgage Electronic Systems Inc. (hereafter known as MERS) as

Defendants with Bank of America and BONYM. (EOR, Tab 3, CP #13) Townleys filed subsequent pleadings including a Judicial Notice (EOR, Tab 5, CP #22, Exhibit 1) informing the Court that the "Beneficiary Declaration" was not filed with the Motion to Dismiss (EOR, Tab 2, CP #11) until Townleys hired an attorney to file a First Amended Complaint. (EOR, Tab 11, CP #68)

On January 18, 2011, BONYM attorney filed a Notice of Appearance on behalf of MERS and LITTON. On March 25, 2011, the First Amended Complaint was filed against defendants BONYM, MERS and LITTON with Jury Demand. (EOR, Tab 11, CP #68) On April 29, 2011, Townleys counsel responded to Motion to Dismiss requesting an Oral Argument. (EOR, Tab 12, CP #77) On May 12, 2011, Townleys counsel filed a late "reply to the response" when he found out there would be no oral argument. BONYM filed a Motion to Strike which was granted on June 29, 2011. Court filed the order and judgment dismissing the case on June 29, 2011 followed up by a timely Motion for Reconsideration on July 13, 2011. (EOR, Tab 14, #CP 90) On September 23, 2011, Townleys received order denying reconsideration (EOR, Tab 15, CP #92). On September 30, 2011, Townleys timely filed Notice of Appeal.

SUMMARY OF ARGUMENT

Though, Bain and Albice (*infra*) were not the law of Washington at the time of the dismissal of Appellants' complaint, it is the law now. Factually and legally, BONYM and LITTON lacked the required statutorily required element of a legal beneficiary named in their foreclosure action. Since MERS is not a legal beneficiary, the foreclosure was never legally commenced. As such, the Court lacked subject matter jurisdiction to grant BONYM, MERS, and LITTON relief.

Townleys do not stand before this Court under privilege. Townleys stand protected by the prohibitive language of the Constitution. Here Townleys' due process property interest were violated by the actions of said domestic and foreign privileged entities. It is contrary to public interests to allow privilege entities to circumvent, ignore, etc., the duty owed of strict compliance with the statutory language of RCW 61.24 et seq. Artful table pounding by BONYM, MERS and LITTON will not change the fact the foreclosure never legally commenced in this case; especially due to the fact that it has been determined by the highest court in Washington state that MERS is "ineligible" as a beneficiary under the Deed Trust Act.

Moreover, notice of facts given to BONYM, MERS and LITTON (the facts attached to the CR 60 Townleys filed in Federal District Court) showed fraud and deception worked on Townleys by all three of these entities. These facts will support public interests claims on remand in addition to recent decisions in Western Washington US District Court and Superior Courts. Granted, Townleys inadvertently tried but failed to consolidate the CR 60 facts with the instant appeal, the facts stand as notice to BONYM, MERS and LITTON of their fraud, deception, improper assignments, lack of normal course of business affiliated with records submitted, and acts contrary to Business Community Standards and Practices. These facts in addition to their lack of a legal beneficiary in the foreclosure in this case, stand as facts supporting CPA violations that involve public interests questions.

Regardless of excusable administrative missteps by the Townleys who, representing themselves have managed living through an eviction, loss, moving an entire family of six, researching and filing pleadings, and dealing with the emotional and physical damage at the hands of BONYM, MERS

and LITTON, Townleys have only ever acted in good faith understanding the importance of the legal system.

It is upon this same legal system that the Townleys now place the facts and merits of this case, highlighting the new decisions in this important and impactful area of law. Legally, the transfer of title to Townleys' home is void and facts exist to support Washington Consumer Protection Act (WCPA) claims against all three parties in favor of Townleys.

ARGUMENT I: POST SALE REMEDY IS AVAILABLE RELIEF UNDER THE FACTS OF THIS CASE

The record shows MERS, in the instant case, was named as the statutorily required beneficiary in the documents used to commencement the foreclosure and throughout the entire foreclosure process, leading to the taking, transfer of title, and eviction of the Townleys' from their home. (See SEOR, Tab 1, CP #70, Exhibit 2, 3, 4, and 8). A legal beneficiary is statutorily required in order for a Deed of Trust (DOT) to contain power, authority, standing...accord, RCW 61.24.005(2).

The First Amended Complaint stated that MERS was named and this is supported by the documents BONYM submitted in their motion to dismiss. Here, quoted in relevant part, is a quote from the Amended Complaint, MERS

"was not the originating lender and never had any interest in the Note, was never the "beneficiary", and could not, as a matter of its own self-imposed limitations, either create an interest in the note or transfer such on-existent interest, and as it could not transfer any such non-existent interest in the note, it also could not transfer the security instrument (the Deed of Trust) incident to the Note."
(EOR, Tab 11, CP #68, pg 5)

In *Bain*, The Court held,

MERS is an ineligible "'beneficiary' within the terms of the Washington Deed of Trust Act," if it never held the promissory note or other debt instrument secured by the deed of trust.
Id. 285 P.3d 34 (Wash.2012)

Only when a legal beneficiary is properly designated does a foreclosing party hold authority to commence a non-judicial foreclosure in Washington. Here, no legal beneficiary was included in any of the documents used to commence the foreclosure; therefore, the foreclosure, here, never legally commenced. As such, because of the statutory flaws voiding the validity of their required express documents, the court lacked the required statutory element to sustain jurisdiction over the matter and grant BONYM, MERS, and LITTON benefits/relief/remedy/recovery. Without the necessary statutory element the relief granted BONYM was improper and the order of dismissal reversible. (See *Bain v. Metropolitan Mortg. Group. Inc.*, 285 P.3d 34 (Wash.2012), pg 18)

The improper foreclosure was worked on Townleys; the manner used to take the Townleys' home was contrary to Business Community Standards and Practices, worked by privileged entities doing business in Washington, contrary to statutory plain language, and against public interests.

The Court's ruling dismissing the case because the sale was not "enjoined" per RCW 61.24.130, does not apply because the foreclosure in this case never legally commenced. The Court having no jurisdiction to give relief to the Defendants can be sufficient to remand the case back to the Trial Court.

Under the auspice of "most favorable to Defendants", the plain language of RCW 61.24.020 (2), 61.24.030 (6)(j), 61.24.040 (2) and 61.24.130 are sufficient to show Townleys' contested the sale. As the Court held in *Cox vs. Helenius*, quoted in relevant part,

If the grantor chooses not to cure, the grantor may take one or more of the following actions. The grantor **may contest the default, RCW 61.24.030(6)(j)**, RCW 61.24.040(2); restrain the sale, RCW 61.24.130; or **contest the sale, RCW 61.24.040(2)**.

Id., 103 Wn.2d 383, 693 P.2d 683 (1985) (Emphasis added)

Washington State's Deed Trust Act (RCW 61.24 et seq.) statutorily requires a foreclosing party to strictly comply with the plain language of RCW 61.24 et seq. Any failure(s) to follow said language must be construed in favor of borrowers (Townleys), as the Court held in *Udall v. T.D. Escrow Servs., Inc.*, quoted in relevant part,

"The Act must be construed in favor of borrowers because of the relative ease with which lenders can forfeit borrowers' interests and the lack of judicial oversight in conducting non-judicial foreclosure sales. (Queen City Sav. & Loan Ass'n v. Mannhalt, 111 Wn.2d 503, 514, 760 P.2d 350 (1988) (Dore, J., dissenting); Koegel v. Prudential Mut. Sav. Bank, 51 Wn. App. 108, 111, 752 P.2d 385, review denied, 111 Wn.2d 1004 (1988))."

Id., 159 Wn.2d 903, 914, 154 P.3d 882 (2007)

In *Albice v. Premier Mortgage Servs. of Wash., Inc.*, the Court recited irregularity of RCW 61.24.040, stating the sale date had been continued several times and once the sale was held beyond the statutorily mandated 120 days, the court stated, in relevant part,

"The trustee held the sale 161 days after the date set forth in the Notice of Trustee Sale, well beyond the statutorily mandated 120-day limit. Accordingly, the sale was void."
Id., 174 Wn.2d 560, 569, 276 P.3d 1277 (2012)

The Amended Complaint (CP #68) states an irregularity consistent with *Albice*. Specifically, the trustee (here) held the sale less than 90 days after the Amended Notice of Sale was received. (EOR, CP #68, pg 5).

RCW 61.24.040(1)(b)(i)

...requires that a party seeking to foreclose a deed of trust against a borrower both record a notice, in the form described in RCW 61.24.040(1)(f), in the office of the auditor of each county in which the deed of trust is recorded and to serve, at least ninety (90) days before the trustee's sale by both first-class and either certified or registered mail, return receipt requested, a copy of the notice of sale upon the borrower. Said notice is required by statute in order to afford the borrower the opportunity to exercise their rights to challenge the sale.

Defendants BONYTE and MERS have admitted, in their filings, their agent, Northwest Trustee's Services, recorded its Amended Notice of Trustee's Sale on September 14, 2010 and conducted a Trustee's Sale on December 3, 2010, which is less than 90 days after the Notice was recorded or served; thus, constituting a clear violation of RCW 61.24.040. (See, EOR, Tab 11, CP #68 as supported by the Amended Notice of Sale (SEOR, Tab 1, CP #70, Exhibit 6), and the Trustees Deed (SEOR, Tab 1, CP #70, Exhibit 8) attached to Defendants' Motion to Dismiss the First Amended Complaint, (SEOR, CP #70)).

Finally, RCW 61.24.050 states the trustee must recite that no procedural irregularities exist—this duty was further established in Udall where the Court concluded, quoted in relevant part,

"We hold that RCW 61.24.050 mandates that a trustee deliver the deed of trust to the purchaser following a non-judicial foreclosure sale, absent procedural irregularity that voids the sale."
Id., *Udall v. T.D. Escrow Servs., Inc.*, 159 Wn.2d 903, 915-16, 154 P.3d 882 (2007)

Irregularities in the foreclosing process address illegal or improper commencement of the foreclosure, for example, here, the Assignment of Deed of Trust (DOT) (EOR, Tab 14, CP #90-3) was assigned approximately four years after the closing date of the alleged trust, "...which is legally impermissible rendering the purported assignment void as a matter of law, rule and regulation" (EOR, Tab 11, CP #68, pg 4)

Therefore, the voidable Assignment of DOT creates a gap in transfer from the non-party Countrywide to BONYM; this flaw is contrary to the statutory requirements of RCW 61.24.040. This too was addressed as outlined in an issue within the First Amended Complaint.

Plaintiffs' rights and legal status as to the Property have been affected by Defendant BOYNTE's and Defendant MERS' intentional and express violations of RCW 61.24.040, which has resulted in the Property being wrongfully and illegally

foreclosed and wrongfully and illegally transferred to
Defendant BOYNTE.
First Amended Complaint (EOR, CP #68, pg 7)

If BONYM did not hold any interest due to the voidable transfer, then the Appointment of Successor Trust (SEOR, Tab 1, CP #70, Exhibit 5) is also voidable because BONYM did not hold authority to appoint the non-party Northwest Trustee as trustee. In addition, the First Amended Complaint (supported by Defendants' own record) goes on to state the Appointment to Successor Trustee is "null, void and without any legal authority as well, and thus any purported attempt by the alleged 'successor trustee' to schedule a foreclosure sale was without legal authority and was itself null and void." (EOR, Tab 11, CP #68, pg 4)

Townleys also sought a stay within the Federal District Court,
For permanent injunction against the Defendant, its subsidiary, affiliates, successors, agents, servants, officers, directors, employees, and all persons acting in concert with them, directly or indirectly, from engaging in the improper, unlawful, unfair, fraudulent and/or deceptive conduct as described above and according to proof
(EOR, Tab 1, CP #10, pg 23, 11 4)

At no point throughout the foreclosure process did the Townleys waive any rights to contest the sale, or seek pre or post sale remedy.

Townleys do request difference from the Court and application of Haines v. Kerner, (404 U.S. 519 (1972)) and similar cases. According to the Clean Hands Doctrine, the legal principle that no party engaging in improper or illegal business practices should be allowed to find remedy in the Courts still stands. Townleys are thus entitled to void of the sale and remand under Albice and Bain.

Argument II - LITTON ARGUMENT NOT MADE IN COLD RECORD AND CANNOT BE BROUGHT UP FOR FIRST TIME IN AN APPEAL

The Ninth Circuit Court of Appeals has typically not considered

issues raised for the first time on appeal. "Our general rule is that we will not consider issues raised for the first time on appeal." *United States v. Carlson*, 900 F.2d 1346, 1349 (9th Cir.1990).

The only exceptions to this guiding principle are listed in a Ninth Circuit ruling regarding when new issues are permitted for review:

"(1) there are 'exceptional circumstances' why the issue was not raised in the trial court, (2) the new issue arises while the appeal is pending because of a change in the law, or (3) the issue presented is purely one of law and the opposing party will suffer no prejudice as a result of the failure to raise the issue in the trial court."

Id., *United States v. Carlson*, 900 F.2d 1346, 1349 (9th Cir.1990)

Since the argument set by the Defendants does not state 'exceptional circumstances', new change in the law, and the Townleys are clearly prejudiced as the opposing party if LITTON is removed from the appeal, it is proper and lawful to keep Litton on the appeal.

Most favorable to LITTON is that Townleys' attorney made an excusable, oversight when typing up the caption for the First Amended Complaint. Still LITTON had appeared by and through the counsel for BONYM and MERS at the time. The Motion to Dismiss the First Amended Complaint (SEOR, Tab 1, CP #70) presents no arguments requesting the dismissal of LITTON as a defendant.

Argument III: FACTS WITHIN EXCERPTS OF RECORD SUBMITTED ARE RELEVANT TO DISMISSAL AND HAVE NEVER BEEN DISPUTED BY DEFENDANTS

The following is specific to address the absurdity of Defendants' argument the Court disallow excerpts submitted by Townleys because the exhibits Defendants submitted are the same or show all that is necessary to support the factual argument Townleys' present. Please see, the exhibits Appellants' references in their opening brief by in EOR, Tabs 4 through 10, are found in Defendants' Supplementary Excerpt of the Record (SEOR) "Tab 1, CP #70." Included in Defendants' SEOR is the unsigned Adjustable Rate Note (Exhibit 1), Deed of Trust (Exhibit 2), Notice of

Default (Exhibit 3), Assignment of Deed of Trust (Exhibit 4), Appointment of Successor Trustee (Exhibit 5), Amended Notice of Sale (Exhibit 6), Notice of Postponement (Exhibit 7), and the Trustees Deed (Exhibit 8).

In short, Defendants' stance requesting the court disallow certain excerpts of the record holds no merit because Defendants' submit the same exhibits in their own pleadings. As such, the facts stand showing the instant foreclosure never legally commenced because Respondent had no legal beneficiary named; therefore, the Trial Court lacked authority to grant Defendants' relief.

Townleys, being pro se litigants / appellants, have since corrected their references and information in the Statement of Facts within this document to refer to the relevant exhibits filed by the Defendants.

In addition any omission of documents in the Excerpt volumes was unintentional and excusable. Defendants are allowed per Circuit Rule 30-1.7 to submit any missing pleadings in their own supplemental excerpt volume as they have done.

The important fact to note is that BONYM, MERS and LITTON have not disputed any facts in the cold record, including the absence of the statutorily required document Beneficiary Declaration (RCW 61.24.031(9)) as noted in the Judicial Notice filed by Townleys (EOR, Tab 5, CP #22, Exhibit 1). Townleys do ask for grace of the Court and agree that Tab 13, at minimum, must be stricken from the excerpts.

**Argument IV: BAIN INTERPRETATION BY APPELLEE COUNSEL WITHOUT MERIT
/ WASHINGTON CPA CLAIMS STILL EXIST**

Washington State's Consumer Protection Act (hereafter WCPA) states that unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful. In RCW 19.86.020 and *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co.*, it states

To prevail in a private action based on a CPA violation, a party must establish five distinct elements: (1) an unfair or deceptive act or practice, (2) occurring in trade or commerce, (3) public interest impact, (4) injury to the party in his business or property, and (5) causation. *Id* 105 Wn.2d 778 at 780, 719 P.2d 531 (1986)

In a recent Federal District Court decision out of Western Washington US District Court, *Massey v. BAC Home Loans Servicing*, acknowledged, in relevant part,

A recent Washington State Supreme Court decision, *Bain v. Metro. Mortg. Group, Inc.*, held that the decades-old practice of naming MERS as the beneficiary in Washington deeds of trust did not comply with the Washington DTA. 285 P.3d 34, 47. The *Bain* court further concluded that "characterizing MERS as the beneficiary has the capacity to deceive" within the meaning of the Washington CPA, creating a presumption that this first element is met. *Id.* at 51; see also *Burkart v. Mortgage Elec. Registration Sys., Inc.*, C11-1921RAJ, 2012 WL 4479577, at *4 (W.D. Wash. Sept. 28, 2012) ("The *Bain* court did conclude . . . that claiming to be the beneficiary on a deed of trust was a deceptive act within the meaning of the [Washington CPA].") *Id.*, Case No. C12-1314JLR, Dist. Court, WD Washington 2012

Therefore, the argument made by BONYM, MERS, and LITTON regarding the *Bain* decision not being interpreted by the Courts as written by the justices in the Washington State Supreme Court is ludicrous. The first element, as is supported by the quote below, is satisfied.

We agree that characterizing MERS as the beneficiary has the capacity to deceive and thus, for the purposes of answering the certified question, presumptively, the first element [of the Washington CPA] is met.
Id **Bain** v. *Metropolitan Mortg. Group, Inc.*, 285 P.3d 34 (Wash.2012)

1
The order dismissing the case (CP #90-4) stated that

...Plaintiffs' WCPA claims are insufficient because they fail to allege public interest impact. The Court agrees. Plaintiffs do not allege a public interest impact in their complaint
Order dismissing the case (CP #90-4, pg 3, ll #18-20)

A review of the First Amended Complaint on pg 10, shows that "The relief requested by Plaintiffs is in the public interest".

With the decision of *Massey v. BAC HOME LOANS SERVICING LP* (2012) concluding that,

"Because the characterization of MERS as the beneficiary of a mortgage has the capacity to deceive a substantial portion of the public, then, at the motion to dismiss stage, the court reasonably infers that it would also have a broad public interest impact."

Id Case No. C12-1314JLR, Dist. Court, WD Washington 2012

Further review of the decision also shows that the Court provided Massey an opportunity to amend her complaint regarding her WCPA claims. Therefore, it is proper to remand the Townleys and give them leave to amend the complaint. Nevertheless, Bain is clear in holding the MERS formal is simply not allowed. The Bain Court goes on further to clarify the responsibility to follow Deed of Trust Act and if MERS is not relevant, beyond the simple and direct ruling, contrary to the record, aspect of if it wasn't this or that esoteric this Court to support their argument is wholly misplaced. The manner used by Defendants' counsel that UCC's application of, (paraphrasing) who really holds the note is proper and this was discussed by the Judges' in the intellectual analysis of Bain is improper, misplaced and violates fundamental principles like notice.

In addition, if the Court was to allow Defendants' new definition or interpretation of the word beneficiary to be expanded, such as it means note holder, or whatever definition is needed to circumvent the plain language violates fundamental principles of notice and is equivalent to an ex post facto application of law. This new meaning of "note holder" or "beneficiary" as Defendants' counsel hope the Court will apply is not only contrary to Bain but it removes fundamental principles of notice from the foreclosure process, leaving a homeowner to speculate as to meanings of key words such as beneficiary. Issues that stand void of notice cannot hold merit. Therefore, the argument that Bain does not apply has no merit.

Conclusion / Relief Requested

In light of the very recent Washington State Supreme Court Decisions

Albice, Bain and Massey, and the facts consistent with these decisions have been preserved in the cold record, the Townleys request the Court of Appeals to Reverse the trial court's Order Denying Reconsideration of the Case, Order of Dismissal of Case and Vacate the Judgment and Remand for jury trial to determine damages incurred by Appellants from the wrongful foreclosure, wrongful eviction and WCPA claims. In addition, due to the irregularities and MERS involvement in the instant wrongful foreclosure, the sale and title transfer to the non-Bona Fide Purchaser; namely, BONYM, should be voided. It is proper to remand consistent with Washington's new determination in subject matter contained within this case.

CERTIFICATES OF COMPLIANCE

Pursuant to 9th Circuit FRAP 32, Appellants state that the brief adheres to requirements for a proportional brief with double spacing, 10.5 size Courier New (monotype) font and with 1-inch margins on top, bottom, and sides. The number of words in the brief are 4,769 (under the 7,000 word limit) within compliance and in compliance with the 15 page limit.

CERTIFICATE OF INTERESTED PARTIES

Appellants certify the following are interested parties in this matter:

- Robert W. Norman Jr. (Houser & Allison) for Bank of New York Mellon, Mortgage Electronic Registration Systems Inc. (MERS) and Litton Loan Servicing (Appellees)

STATEMENT OF RELATED CASES

Appellant is aware of the following related cases:

US Bankruptcy Court in Seattle, Washington case #09-22120 / US Bankruptcy Appellate Panel of the Ninth Circuit case #12-60001 - Scott C Townley and Stephanie A Tashiro-Townley vs K. Michael Fitzgerald, US Bankruptcy Trustee.

King County Superior Court case #12-2-06921-2 KNT / Division I Appeal No. 69194-5I

Respectfully submitted,

/s/ Scott C Townley
Scott C Townley Appellant

January 3, 2013
Date

/s/ Stephanie A Tashiro-Townley
Stephanie A Tashiro-Townley Appellant

January 3, 2013
Date

Exhibit 5

Matter ID 58471 | Townley v. The Bank of New York Mellon, as Trustee, et al. | Appeals Div. I Case No. 69194-5-I | Respondents' Supplemental Brief

Shawn K. Williams <swilliams@houser-law.com>
To: "zoemom4@gmail.com" <zoemom4@gmail.com>
Cc: "Lauren D. Humphreys" <lhumphreys@houser-law.com>

Thu, Sep 11, 2014 at 12:33 PM

Mr. and Mrs. Townley,

Attached please find Respondents' Supplemental Brief filed today in the above referenced matter.

A hard copy is being sent via UPS Overnight.

Should you have any questions or concerns please contact our office. Thank you.

Regards,

Shawn

Shawn K. Williams

HOUSER

L.L.P.

1601 5th Ave, Suite 850

Seattle, WA 98101

P: (206) 461-1000 F: (206) 461-1001

www.houser-law.com

Offices in Orange, Los Angeles, & San Diego Counties,

Boston, Las Vegas, Newark, New York, Phoenix, Portland, Seattle and Twin Cities.

RECEIVED
COURT OF APPEALS
DIVISION ONE
SEP 25 2014

↳ **Townley - Respondents' Supp. Brief.pdf**
661K

September 11, 2014

Shawn K. Williams
360.596.7838
shawn@houser-law.com

Houser & Allison, APC
1115 First Ave. Suite 850
Seattle, WA 98101

www.houser-law.com

VIA UPS OVERNIGHT

Scott C. Townley
Stephanie A. Tashiro-Townley
25437 167th Pl. SE
Covington, WA 98042

Re: **Townley v. The Bank of New York Mellon, et al.**

Case No.: **69194-5-1**

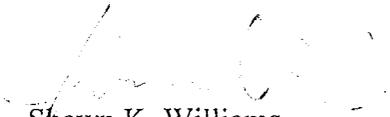
Dear Mr. and Mrs. Townley,

Enclosed please find Respondents' Supplemental Brief filed today in the above referenced matter.

Should you have any questions or concerns please contact our office. Thank you.

Respectfully,

Houser & Allison, APC



Shawn K. Williams

Enclosure

STON

INE

VEGAS

ANGELES

MARK

W YORK

DENIX

UTLAND

DIEGO

TTLE

IN CITIES

Exhibit 6

U.S. District Court
United States District Court for the Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:10-cv-01720-JCC

Tashiro-Townley et al v. Bank of New York Mellon
Assigned to: Judge John C Coughenour
Cause: 28:1331 Fed. Question

Date Filed: 10/22/2010
Jury Demand: Plaintiff
Nature of Suit: 290 Real Property: Other
Jurisdiction: Federal Question

Plaintiff

Stephanie A Tashiro-Townley

represented by **Stephanie A Tashiro-Townley**
25437 - 167 PLACE SE
COVINGTON, WA 98042
Email: zoemom4@gmail.com
PRO SE

John A Sterbick
1010 SOUTH "I" STREET
TACOMA, WA 98405
253-383-0140
Email: JSterbick@Sterbick.com
TERMINATED: 07/11/2011
ATTORNEY TO BE NOTICED

W Jeff Barnes
WJ BARNES PA
2901 WEST COAST HIGHWAY
SUITE 350
NEWPORT BEACH, CA 92663
949-270-7413
Email: jeff@wjbarneslaw.com
TERMINATED: 07/11/2011
PRO HAC VICE
ATTORNEY TO BE NOTICED

Plaintiff

Scott C Townley

represented by **Scott C Townley**
23639 SE 267TH PLACE
MAPLE VALLEY, WA 98038
PRO SE

John A Sterbick
(See above for address)
TERMINATED: 07/11/2011
ATTORNEY TO BE NOTICED

W Jeff Barnes
(See above for address)
TERMINATED: 07/11/2011
PRO HAC VICE
ATTORNEY TO BE NOTICED

V.

Defendant

Bank of New York Mellon
as Trustee for the Certificateholders
CWL, Inc. Asset Backed Certificates,
Series 2005-10
formerly known as
Bank of New York

represented by **Joshua Schaer**
RCO LEGAL, P.S.
13555 SE 36TH STREET
STE 300
BELLEVUE, WA 98006
425-457-7810
Fax: 425-974-8680
Email: jschaer@rcolegal.com
TERMINATED: 03/29/2012
ATTORNEY TO BE NOTICED

Lauren Davidson Humphreys
HOUSER & ALLISON APC
(SEATTLE)
1601 5TH AVENUE
SUITE 850
SEATTLE, WA 98101
206-596-7838
Fax: 206-596-7839
Email: lhumphreys@houser-law.com
ATTORNEY TO BE NOTICED

Robert W Norman , Jr
HOUSER & ALLISON APC
(SEATTLE)
1601 5TH AVENUE
SUITE 850
SEATTLE, WA 98101
562-256-1675
Email: rnorman@houser-law.com
ATTORNEY TO BE NOTICED

Defendant

**Mortgage Electronic Registration
Systems, Inc.**

represented by **Joshua Schaer**
(See above for address)
TERMINATED: 03/29/2012
ATTORNEY TO BE NOTICED

Lauren Davidson Humphreys
(See above for address)
ATTORNEY TO BE NOTICED

Robert W Norman , Jr
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Litton Loan Servicing, LP

represented by **Joshua Schaer**
(See above for address)
TERMINATED: 03/29/2012
ATTORNEY TO BE NOTICED

Lauren Davidson Humphreys
(See above for address)
ATTORNEY TO BE NOTICED

Robert W Norman , Jr
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

BAC Home Loans Servicing L.P.
TERMINATED: 06/23/2011

represented by **John S Devlin , III**
LANE POWELL PC (SEA)
1420 FIFTH AVE
STE 4100
SEATTLE, WA 98101-2338
206-223-7000
Fax: FAX 223-7107
Email: devlinj@lanepowell.com
TERMINATED: 06/23/2011
LEAD ATTORNEY

Abraham K Lorber
LANE POWELL PC (SEA)
1420 FIFTH AVE
STE 4100
SEATTLE, WA 98101-2338
206-223-7434
Fax: 206-223-7107
Email: lorbera@lanepowell.com
TERMINATED: 06/23/2011

Date Filed	#	Docket Text
09/22/2014	<u>141</u>	

		Mail Returned as Undeliverable re <u>137</u> Order on Motion for Miscellaneous Relief, Order on Motion to Stay addressed to Scott Townley (LMK) (Entered: 09/23/2014)
09/18/2014	<u>140</u>	REPLY, filed by Plaintiff Stephanie A Tashiro-Townley, TO RESPONSE to <u>129</u> MOTION to Stay (<i>renoted</i>) (Attachments: # <u>1</u> Exhibit Declaration of Mailing for Reply to Defendants Response to Motion to Stay)(Tashiro-Townley, Stephanie) (Entered: 09/18/2014)
09/15/2014	<u>139</u>	EXHIBIT A re <u>138</u> Response to Motion by Defendants Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc. (Humphreys, Lauren) (Entered: 09/15/2014)
09/15/2014	<u>138</u>	RESPONSE, by Defendants Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc., to <u>129</u> MOTION to Stay (<i>renoted</i>). (Humphreys, Lauren) (Entered: 09/15/2014)
09/12/2014	<u>137</u>	MINUTE ORDER granting <u>135</u> Stipulation Agreement to Strike docket 127 and 128 by parties. ORDER striking Plaintiffs' <u>127</u> Motion to Strike; striking Plaintiffs' <u>128</u> Motion to Stay, by Judge John C Coughenour. (TM)cc: Pro Se (Entered: 09/12/2014)
09/10/2014	<u>136</u>	PROPOSED ORDER (Unsigned) re <u>135</u> Stipulation, <i>Motion and Agreement to Strike Dockets 127-128</i> (Attachments: # <u>1</u> Certificate of Service Declaration of Mailing Stipulated Motion and Agreement and Proposed Order)(Tashiro-Townley, Stephanie) (Entered: 09/10/2014)
09/10/2014	<u>135</u>	STIPULATION <i>Agreement to Strike docket 127 and 128</i> by parties re <u>127</u> MOTION to Strike Defendants' Memorandum Regarding Ninth Circuit Opinion and Bain Decision filed August 28, 2014 pursuant to F.R.C.P. 7(b), F.R.C.P. 12(f) and Local Rule 7(g)(5)., <u>128</u> MOTION to Stay (Tashiro-Townley, Stephanie) (Entered: 09/10/2014)
09/09/2014	<u>134</u>	Letter to Pro Se filer re: Electronic Filing from Clerk's Office(TM) (Entered: 09/09/2014)
09/04/2014	<u>133</u>	DECLARATION of <i>Plaintiffs' Memorandum and Exhibits (on 8/29/2014)</i> by Plaintiff Stephanie A Tashiro-Townley (Tashiro-Townley, Stephanie) (Entered: 09/04/2014)
09/04/2014	<u>132</u>	MEMORANDUM <i>regarding 9th Circuit decision (served on 8/29, received by Court on 9/2 (as Docket #128-3) corrected docket entry)</i> by Plaintiff Stephanie A Tashiro-Townley (Attachments: # <u>1</u> Exhibit Exhibits requested by Court on 8/19)(Tashiro-Townley, Stephanie) (Entered: 09/04/2014)
09/04/2014	<u>131</u>	DECLARATION of <i>Mailing of Judicial Notice and Renoted Motion to Stay</i> by Plaintiff Stephanie A Tashiro-Townley (Tashiro-Townley, Stephanie) (Entered: 09/04/2014)
09/04/2014	<u>130</u>	NOTICE <i>Judicial Notice</i> re <u>126</u> Memorandum ; filed by Plaintiff Stephanie A Tashiro-Townley. (Tashiro-Townley, Stephanie) (Entered: 09/04/2014)
09/04/2014	<u>129</u>	

		MOTION to Stay (<i>renoted</i>) by Plaintiff Stephanie A Tashiro-Townley. (Attachments: # <u>1</u> Exhibit Declaration in Support and Exhibits A-E) Noting Date 9/19/2014, (Tashiro-Townley, Stephanie) (Entered: 09/04/2014)
09/02/2014	<u>128</u>	MOTION to Stay Pending Division I Court of Appeals Decision filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley; Noting Date 9/12/2014. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Declaration in Support, # <u>3</u> Memorandum) (LMK) (Entered: 09/03/2014)
09/02/2014	<u>127</u>	MOTION to Strike Defendants' Memorandum Regarding Ninth Circuit Opinion and Bain Decision filed August 28, 2014 pursuant to F.R.C.P. 7(b), F.R.C.P. 12(f) and Local Rule 7(g)(5) filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Declaration in Support)(LMK) (Entered: 09/03/2014)
08/28/2014	<u>126</u>	MEMORANDUM <i>Re 9th Circ. Opinion Bain Decision</i> by Defendants Bank of New York Mellon, Litton Loan Servicing, LP (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Humphreys, Lauren) (Entered: 08/28/2014)
08/19/2014	125	MINUTE ENTRY for proceedings held before United States District Court Judge John C. Coughenour- Dep Clerk: <i>Gail Glass</i> ; Pla Counsel: <i>Pro se: Stephanie Tashiro-Townley</i> ; Def Counsel: <i>Lauren Humphreys</i> ; CR: <i>Kari McGrath</i> ; Time of Hearing: <i>9:08a.m.</i> ; Courtroom: <i>16206</i> ; Session #: <i>2</i> ; Status Conference held on 8/19/2014. The Court directs each side to submit a memorandum regarding the Ninth Circuit's remand not to exceed three pages within the next ten days. Adjourned. (GG) (Entered: 08/20/2014)
06/12/2014	<u>124</u>	NOTICE of Association of Attorney by Lauren Davidson Humphreys on behalf of Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc.. (Humphreys, Lauren) (Entered: 06/12/2014)
06/11/2014	123	NOTICE OF STATUS CONFERENCE. The Court orders counsel to appear for a Status Conference set on 8/19/2014 at 9:00 AM in Courtroom 16206 before United States District Judge John C. Coughenour.(PP) (Entered: 06/11/2014)
06/06/2014	<u>122</u>	MANDATE of USCA (11-35819) as to <u>93</u> Notice of Appeal,, filed by Scott C Townley, Stephanie A Tashiro-Townley. The judgment of this Court, entered January 27, 2014, takes effect this date. AFFIRMED in part, VACATED in part, and REMANDED. (SA) (SA) (Entered: 06/06/2014)
05/29/2014	<u>121</u>	ORDER of USCA (11-35819) as to <u>93</u> Notice of Appeal,, filed by Scott C Townley, Stephanie A Tashiro-Townley. We treat plaintiffs motion for reconsideration as a petition for panel rehearing, and deny the petition.No further filings will be entertained in this closed case. (SA) (Entered: 05/29/2014)
02/20/2014	120	NOTICE OF VACATING THE STATUS CONFERENCE. The Court, having been advised that the Mandate was recalled, hereby orders the Status Conference set on 3/25/2014 at 9:00 a.m. hereby VACATED. (PP) (Entered: 02/20/2014)

02/20/2014	<u>119</u>	ORDER of USCA (11-35819) as to <u>93</u> Notice of Appeal, filed by Scott C Townley, Stephanie A Tashiro-Townley. The mandate issued on February 20, 2014 is RECALLED as issued in error. (SA) (Entered: 02/20/2014)
02/20/2014	118	NOTICE OF STATUS CONFERENCE. The Court, having received the mandate, hereby orders the plaintiff and defense counsel to appear for a Status Conference on 3/25/2014 at 9:00 AM in Courtroom 16206 before United States District Judge John C. Coughenour.(PP) (Entered: 02/20/2014)
02/20/2014	<u>117</u>	MANDATE of USCA (11-35819) as to <u>93</u> Notice of Appeal,, filed by Scott C Townley, Stephanie A Tashiro-Townley; The judgment <u>116</u> of this Court, entered January 27, 2014, takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. AFFIRMED in part, VACATED in part, and REMANDED (CC: Case Administrator) (LMK) (Entered: 02/20/2014)
01/27/2014	<u>116</u>	MEMORANDUM of USCA (11-35819 NOT THE MANDATE) as to <u>93</u> Notice of Appeal,, filed by Scott C Townley, Stephanie A Tashiro-Townley. AFFIRMED in part, VACATED in part, and REMANDED. (SA) (Entered: 01/27/2014)
09/04/2012	<u>115</u>	DESIGNATION OF RECORD AND STATEMENT OF ISSUES by Plaintiff Stephanie A Tashiro-Townley, (re: <u>93</u> Notice of Appeal,, <u>114</u> Order of USCA,,) (Tashiro-Townley, Stephanie) Modified on 9/4/2012; Document electronically transmitted to CCA (LMK). (Entered: 09/04/2012)
08/09/2012	<u>114</u>	ORDER of USCA (11-35819) as to <u>93</u> Notice of Appeal,, filed by Scott C Townley, Stephanie A Tashiro-Townley; Appellants motion for a fourth extension of time to file the opening brief is granted. The opening brief is due September 21, 2012. The answering brief is due October 22, 2012. The optional reply brief is due within 14 days after service of the answering brief. Any further request for an extension of time to file the opening brief is disfavored. Appellants motion to consolidate and supplement the record is denied. Williams v. Woodford, 384 Federal Rule of Appellate Procedure 3d 567, 586 (9th Cir. 2004) (order in response to Federal Rule Civil Procedure 60 (b) is nullity in absence of a limited remand). (LMK) (Entered: 08/10/2012)
07/13/2012	<u>113</u>	ORDER by Judge John C Coughenour; The Court DENIES pltfs' <u>110</u> Motion for Reconsideration. (TF) (Entered: 07/13/2012)
07/12/2012	<u>112</u>	ORDER of USCA (11-35819) as to <u>93</u> Notice of Appeal,, filed by Scott C Townley, Stephanie A Tashiro-Townley; Appellants opposed motion for a third extension of time to file the opening brief is granted. The opening brief is due July 23, 2012. The answering brief is due August 22, 2012. The optional reply brief is due within 14 days after service of the answering brief. Any further request for an extension of time to file the opening brief is disfavored. Appellees motion to dismiss is denied. Appellees are reminded of the obligation to identify in the caption any request for affirmative relief. Fed. R. App. P. 27 (LMK) (Entered: 07/12/2012)
06/18/2012	<u>111</u>	DECLARATION of Mailing by C Whitaker re <u>110</u> MOTION for Reconsideration re <u>109</u> Order on Motion for Relief, Order on Motion for

		Miscellaneous Relief MOTION for Reconsideration re <u>109</u> Order on Motion for Relief, Order on Motion for Miscellaneous Relief by Plaintiff Stephanie A Tashiro-Townley. (Tashiro-Townley, Stephanie) (Entered: 06/18/2012)
06/18/2012	<u>110</u>	MOTION for Reconsideration re <u>109</u> Order on Motion for Relief, Order on Motion for Miscellaneous Relief by Plaintiff Stephanie A Tashiro-Townley. (Attachments: # <u>1</u> Exhibit Exhibit A - Order Denying FRCP 60, # <u>2</u> Exhibit Declaration of Stephanie Tashiro-Townley in Support of Motion for Reconsideration, # <u>3</u> Proposed Order Proposed Order Granting Motion for Reconsideration) Noting Date 7/13/2012, (Tashiro-Townley, Stephanie) (Entered: 06/18/2012)
06/05/2012	<u>109</u>	ORDER by Judge John C Coughenour; The Court DENIES pltfs' <u>98</u> Motion for Relief from Judgment and STRIKES pltfs' <u>105</u> Clarification. (TF) (Entered: 06/05/2012)
05/24/2012	<u>108</u>	STATEMENT re <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> of <i>Additional Authorities</i> by Plaintiff Stephanie A Tashiro-Townley. (Attachments: # <u>1</u> Exhibit US District Court of Hawaii decision, # <u>2</u> Exhibit US Office of Currency Comptroller)(Tashiro-Townley, Stephanie) (Entered: 05/24/2012)
05/21/2012	<u>107</u>	NOTICE of Change of Address for Counsel by Attorney Robert W Norman, Jr. (TF) Clerk updated address on docket. (Entered: 05/22/2012)
04/18/2012	<u>106</u>	DECLARATION of Service of Defendants re: Motion for clarification per FRAP 12.1 re <u>105</u> MOTION Clarification regarding FRCP 60 per FRAP 12.1 re <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> < MOTION Clarification regarding FRCP 60 per FRAP 12.1 re <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> < MOTION Clarification regarding FRCP 60 per FRAP 12.1 re <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> < MOTION Clarification regarding FRCP 60 per FRAP 12.1 re <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> < MOTION Clarification regarding FRCP 60 per FRAP 12.1 re <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> < by Plaintiff Stephanie A Tashiro-Townley. (Tashiro-Townley, Stephanie) (Entered: 04/18/2012)
04/16/2012	<u>105</u>	MOTION Clarification regarding FRCP 60 per FRAP 12.1 re <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP</i>

		60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) by Plaintiff Stephanie A Tashiro-Townley. (Attachments: # <u>1</u> Supplement Declaration in Support of Motion for clarification per 12.1) Noting Date 5/4/2012, (Tashiro-Townley, Stephanie) (Entered: 04/16/2012)
03/29/2012	<u>104</u>	AFFIDAVIT of Process Service of Reply to Response of Plaintiff's FRCP 60 filed by Plaintiff Stephanie A Tashiro-Townley re <u>99</u> Response to Motion,, <u>98</u> MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) (Tashiro-Townley, Stephanie) (Entered: 03/29/2012)
03/29/2012	<u>103</u>	REPLY, filed by Plaintiff Stephanie A Tashiro-Townley, TO RESPONSE to <u>98</u> MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) MOTION for Relief Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3) (Attachments: # <u>1</u> Supplement Declaration in Support of CR60 "new evidence" - Cheye Larson, # <u>2</u> Supplement Declaration in Support of CR60 "new evidence" - Sandi Rivers, # <u>3</u> Supplement Declaration in Support of CR60 "new evidence" - Eric Taneda)(Tashiro-Townley, Stephanie) (Entered: 03/29/2012)
03/29/2012	<u>102</u>	ORDER PERMITTING SUBSTITUTION AND WITHDRAWAL OF COUNSEL FOR DEFTS by Judge John C Coughenour; The Court GRANTS the parties' <u>101</u> Stipulated Motion and Attorney Joshua Schaer is withdrawn as counsel for defts. Attorney Robert W Norman Jr shall be substituted as counsel for defts. (TF) (Entered: 03/29/2012)
03/28/2012	<u>101</u>	Stipulated MOTION to Substitute Counsel for Defendants Bank of New York Mellon, as Trustee, Mortgage Electronic Registration Systems, Inc. and Litton Loan Servicing, LP by Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc.. (Attachments: # <u>1</u> Proposed Order [PROPOSED] Order Permitting Substitution and Withdrawal of Counsel for Defendants) Noting Date 4/13/2012, (Norman, Robert) (Entered: 03/28/2012)

03/26/2012	<u>100</u>	NOTICE of Appearance by attorney Robert W Norman, Jr on behalf of Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc.. (Norman, Robert) (Entered: 03/26/2012)
03/26/2012	<u>99</u>	RESPONSE, by Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc., to <u>98</u> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> . (Norman, Robert) (Entered: 03/26/2012)
03/07/2012	<u>98</u>	MOTION for Relief <i>Based on New Evidence FRCP 59 and FRCP 60(b)(2) and Fraud FRCP 60(b)(3)</i> by Plaintiff Stephanie A Tashiro-Townley. (Attachments: # <u>1</u> Exhibit STT - Declaration of New Evidence, # <u>2</u> Exhibit New Evidence Affidavit of Expert Lynn Szymoniak and direct evidence of fraud, # <u>3</u> Exhibit New Evidence Exhibit A - Declaration of Expert Cheye Larson, # <u>4</u> Exhibit Cheye Larson Dec Exhibit A - MERS Report 2010, # <u>5</u> Exhibit Cheye Larson Dec Exhibit B - MERS Report January 11, 2012, # <u>6</u> Exhibit Cheye Larson Dec Exhibit C - MERS Report January 29, 2012, # <u>7</u> Exhibit New Evidence B - MERS Report January 11, 2012, # <u>8</u> Exhibit New Evidence Exhibit C - MERS Report January 29, 2012, # <u>9</u> Exhibit New Evidence Exhibit D - MERS Report 2010, # <u>10</u> Exhibit New Evidence Exhibit E - Email from SEC on 12-13-2011, # <u>11</u> Exhibit New Evidence Exhibit E - Letter attached to SEC email on 12-13-2011, # <u>12</u> Exhibit New Evidence Exhibit F - SEC email on 1-26-2012, # <u>13</u> Exhibit Procedural History Declaration - STT, # <u>14</u> Exhibit Procedural History Exhibit A - Transcript from 6-11-2010 from Bankruptcy Case 09-22120, # <u>15</u> Exhibit Procedural History Exhibit B - Docket from Bankruptcy Case 09-22120, # <u>16</u> Exhibit Procedural History Exhibit C - Transcript from 8-26-2010 from Bankruptcy Case 09-22120, # <u>17</u> Proposed Order Proposed Order) Noting Date 3/30/2012, (Tashiro-Townley, Stephanie) (Entered: 03/07/2012)
11/29/2011	<u>97</u>	NOTICE by Appellants stating that no transcripts were requested for appeal per LCR 10-3.1(c) ; filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Tashiro-Townley, Stephanie) (Entered: 11/29/2011)
10/17/2011	<u>96</u>	MINUTE ORDER re <u>95</u> MOTION for Leave to Appeal in forma pauperis by Judge John C Coughenour. This matter comes before the Court on referral from the United States Court of Appeals for the Ninth Circuit for the limited purpose of determining whether in forma pauperis status should continue for this appeal. (Dkt. No. 95.) It is the determination of this Court that in formapauperis status should continue. The Clerk is DIRECTED to provide copies of this minute order to the parties and to the Ninth Circuit. Copy of Order mailed to Plaintiffs and electronically transmitted to Court of Appeals. (LMK) (Entered: 10/17/2011)

10/04/2011	<u>95</u>	REFERRAL NOTICE FROM USCA; See <u>94</u> ; This matter is referred to the district court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. See 28 U.S.C. § 1915(a)(3); see also Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court finds the appeal to be frivolous).If the district court elects to revoke in forma pauperis status, the district court is requested to notify this court and the parties of such determination within 21 days of the date of this referral. If the district court does not revoke in forma pauperis status, such status will continue automatically for this appeal pursuant to Fed. R. (LMK) Modified on 10/6/2011 (LMK). (Entered: 10/06/2011)
10/04/2011	<u>94</u>	ORDER of USCA (11-35819) as to <u>93</u> Notice of Appeal,, filed by Scott C Townley, Stephanie A Tashiro-Townley; This matter is referred to the district court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. See 28 U.S.C. § 1915(a)(3); see also Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court finds the appeal to be frivolous).If the district court elects to revoke in forma pauperis status, the district court is requested to notify this court and the parties of such determination within 21 days of the date of this referral. If the district court does not revoke in forma pauperis status, such status will continue automatically for this appeal pursuant to Fed. R. (LMK) (Entered: 10/06/2011)
10/03/2011		Appeal Fees NOT received: IFP PREVIOUSLY GRANTED 11/6/10 (Appellant submitted new application for IFP on Appeal) re <u>93</u> Notice of Appeal, filed by Scott C Townley, Stephanie A Tashiro-Townley (SA) (Entered: 10/03/2011)
09/30/2011	<u>93</u>	NOTICE OF APPEAL as to <u>87</u> Judgment by Court, <u>86</u> Order on Motion to Dismiss, Order on Motion for Miscellaneous Relief, Terminated Case, <u>92</u> Order on Motion for Reconsideration by.Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Supplement In Forma Pauperis - Scott, # <u>2</u> Supplement In Forma Pauperis - Stephanie, # <u>3</u> Supplement Dkt 92 - Order Denying Motion for Reconsideration, # <u>4</u> Supplement Dkt 86 - Order Dismissing Complaint and Closing Case, # <u>5</u> Supplement Dkt 87 - Judgment Dismissing Complaint and Closing Case)(Tashiro-Townley, Stephanie) Modified on 2/20/2014 - REOPEN NOTICE OF APPEAL (SA). (Entered: 10/01/2011)
09/23/2011	<u>92</u>	ORDER by Judge John C Coughenour; The Court DENIES pltf's' <u>90</u> Motion for Reconsideration. (TF) cc: pro se pltf's (Entered: 09/23/2011)
07/14/2011	<u>91</u>	NOTICE of Appearance (Tashiro-Townley, Stephanie) (Entered: 07/14/2011)
07/13/2011		***Motion terminated: Pltf's' <u>89</u> MOTION for Reconsideration filed by Stephanie A Tashiro-Townley was erroneously filed as Motion. Document is a Proposed Order filed re pltf's' true <u>90</u> Motion for Reconsideration. (TF) (Entered: 07/14/2011)
07/13/2011	<u>90</u>	

		MOTION for Reconsideration re <u>87</u> Judgment by Court, <u>86</u> Order on Motion to Dismiss, Order on Motion for Miscellaneous Relief, Terminated Case <i>C10-1720</i> by Plaintiff Stephanie A Tashiro-Townley. (Attachments: # <u>1</u> Proposed Order Proposed Order, # <u>2</u> Exhibit Declaration in Support of Motion for Reconsideration, # <u>3</u> Exhibit Exhibit A - corrected Assignment of DOT, # <u>4</u> Exhibit Exhibit B - Order to dismiss and close case, # <u>5</u> Exhibit Exhibit C - Pizan vs. HSBC Order) Noting Date 7/13/2011, (Tashiro-Townley, Stephanie) (Entered: 07/13/2011)
07/13/2011	<u>89</u>	(Proposed Order) for MOTION for Reconsideration re <u>87</u> Judgment by Court, <u>86</u> Order on Motion to Dismiss, Order on Motion for Miscellaneous Relief, Terminated Case <i>C10-1720</i> by Plaintiff Stephanie A Tashiro-Townley. Noting Date 7/13/2011, (Tashiro-Townley, Stephanie) Modified on 7/14/2011 to reflect document filed is a proposed order and not a motion (TF). (Entered: 07/13/2011)
07/11/2011	<u>88</u>	NOTICE OF WITHDRAWAL OF COUNSEL: Attorney W Jeff Barnes and John A Sterbick for Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Sterbick, John) (Entered: 07/11/2011)
06/29/2011	<u>87</u>	JUDGMENT BY COURT; Due to Pltfs' failure to restrain the trustee's sale, all claims unrelated to the WCPA are deemed waived. Due to Pltfs' failure to allege a public interest impact, their WCPA claims are DISMISSED. Pltfs' request for injunctive relief is DISMISSED. Defts' motion to dismiss is GRANTED. Defts' motion for attorney fees is DENIED. The Clerk is directed to close the case. (TF) (Entered: 06/29/2011)
06/29/2011	<u>86</u>	ORDER by Judge John C Coughenour; The Court GRANTS depts' <u>70</u> Motion to Dismiss and GRANTS depts' <u>83</u> Motion to Strike. (TF) (Entered: 06/29/2011)
06/23/2011	<u>85</u>	ORDER by Judge John C Coughenour; The Court GRANTS deft BAC Home Loans' <u>45</u> Motion to Dismiss; Plaintiffs' claims against BAC Home Loans are dismissed in their entirety, with prejudice, and without leave to amend pursuant to FED. R. CIV. P. 12(b)(6).(TF) (Entered: 06/23/2011)
05/12/2011	<u>84</u>	DECLARATION of Stephanie Tashiro-Townley filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>70</u> MOTION to Dismiss <i>First Amended Complaint</i> (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Sterbick, John) (Entered: 05/12/2011)
05/12/2011	<u>83</u>	MOTION Motion to Strike re <u>81</u> Reply to Response to Motion by Defendants Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc.. (Attachments: # <u>1</u> Certificate of Service) Noting Date 5/13/2011, (Schaer, Joshua) (Entered: 05/12/2011)
05/12/2011	<u>82</u>	STIPULATION AND PROPOSED ORDER <i>Stipulated Motion to Dismiss Defendant BAC Home Loans Servicing, LP</i> by parties. (Attachments: # <u>1</u> Proposed Order Granting Stipulated Motion to Dismiss Defendant BAC Home Loans Servicing, LP)(Lorber, Abraham) (Entered: 05/12/2011)
05/12/2011	<u>81</u>	REPLY, filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley, TO RESPONSE to <u>70</u> MOTION to Dismiss <i>First Amended Complaint</i>

		(Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Sterbick, John) (Entered: 05/12/2011)
05/12/2011	<u>80</u>	AFFIDAVIT of Service of Summons and Complaint on Andrew Marmion on 4/25/2011, filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Sterbick, John) (Entered: 05/12/2011)
05/05/2011	<u>79</u>	REPLY, filed by Defendants Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc., TO RESPONSE to <u>70</u> MOTION to Dismiss <i>First Amended Complaint</i> (Attachments: # <u>1</u> Certificate of Service)(Schaer, Joshua) (Entered: 05/05/2011)
04/29/2011	<u>78</u>	CERTIFICATE OF SERVICE by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>77</u> Response to Motion. (Sterbick, John) (Entered: 04/29/2011)
04/29/2011	<u>77</u>	RESPONSE, by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley, to <u>70</u> MOTION to Dismiss <i>First Amended Complaint</i> . Oral Argument Requested. (Attachments: # <u>1</u> Exhibit A)(Sterbick, John) (Entered: 04/29/2011)
04/29/2011	<u>76</u>	ORDER re <u>72</u> Application for Leave to Appear Pro Hac Vice. The Court ADMITS W. Jeff Barnes for pltfs Stephanie A Tashiro-Townley and Scott C Townley, by William M. McCool. (No document associated with this docket entry, text only.)(CL) (Entered: 04/29/2011)
04/29/2011	<u>75</u>	PRAECIPE to attach document (Application for PHV) re <u>72</u> Application for Leave to Appear Pro Hac Vice by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Sterbick, John) (Entered: 04/29/2011)
04/26/2011	<u>74</u>	MINUTE ORDER by Judge John C Coughenour, United States District Judge; Deft BAC Home Loans Servicing LP's <u>45</u> MOTION to Dismiss is hereby RE-NOTED: Noting Date 5/13/2011. (TF) (Entered: 04/27/2011)
04/15/2011	<u>73</u>	NOTICE that the following is RE-NOTED: <u>70</u> MOTION to Dismiss <i>First Amended Complaint</i> . Filed by Defendants Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc.. Noting Date 5/13/2011, (Attachments: # <u>1</u> Certificate of Service)(Schaer, Joshua) (Entered: 04/15/2011)
04/14/2011	<u>72</u>	APPLICATION OF ATTORNEY W. Jeff Barnes FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley (Fee Paid) Receipt No. 0981-2397902. (Attachments: # <u>1</u> Proposed Order) (Sterbick, John) (Entered: 04/14/2011)
04/08/2011	<u>71</u>	NOTICE that the following is RE-NOTED: <u>70</u> MOTION to Dismiss <i>First Amended Complaint</i> . Filed by Defendants Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc.. Noting Date 5/6/2011, (Attachments: # <u>1</u> Certificate of Service)(Schaer, Joshua) (Entered: 04/08/2011)
04/04/2011	<u>70</u>	MOTION to Dismiss <i>First Amended Complaint</i> by Defendants Bank of New York Mellon, Mortgage Electronic Registration Systems, Inc.. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Certificate of Service) Noting Date 4/22/2011, (Schaer, Joshua) (Entered: 04/04/2011)

03/25/2011	<u>69</u>	AFFIDAVIT OF SERVICE by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>68</u> Amended Complaint. (Sterbick, John) (Entered: 03/25/2011)
03/25/2011	<u>68</u>	AMENDED COMPLAINT against defendant(s) BAC Home Loans Servicing L.P., Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc. with JURY DEMAND, filed by Stephanie A Tashiro-Townley, Scott C Townley.(Sterbick, John) (Entered: 03/25/2011)
03/25/2011	<u>67</u>	REPLY, filed by Defendant BAC Home Loans Servicing L.P., TO RESPONSE to <u>45</u> MOTION to Dismiss <i>PURSUANT TO FED. R. CIV. P. 12(b)(6) OF DEFENDANT BAC HOME LOANS SERVICING, LP</i> MOTION to Dismiss <i>PURSUANT TO FED. R. CIV. P. 12(b)(6) OF DEFENDANT BAC HOME LOANS SERVICING, LP</i> (Lorber, Abraham) (Entered: 03/25/2011)
03/24/2011	<u>66</u>	NOTICE of Appearance by attorney John A Sterbick on behalf of Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Sterbick, John) (Entered: 03/24/2011)
03/23/2011	<u>65</u>	MINUTE ORDER by John C. Coughenour, United States District Judge. Plaintiffs shall file their amended complaint no later than Friday, March 25, 2011. (CL) (cc: pltfs) (Entered: 03/23/2011)
03/18/2011	<u>64</u>	ORDER by Judge John C Coughenour. Defendants' motion is STRICKEN. (Dkt. No. <u>39</u> .) Plaintiffs' motion for an extension of time to respond is STRICKEN as MOOT. (Dkt. No. <u>46</u> .) Plaintiffs' motion to amend the complaint is GRANTED. (Dkt. No. <u>47</u> .) (cc: pltf) (CL) (Entered: 03/18/2011)
03/15/2011	<u>63</u>	<p>MINUTES OF STATUS CONFERENCE: JCC; Dep Clerk: PDP; CR: Kari McGrath; Counsel: Stephanie A. Tashiro-Townley, pro se; Scott C. Townley, pro se; Joshua Schaer; Abraham Lorber. The case was called and the Court directed the plaintiffs to respond to the Order to Show Cause issued after the plaintiffs failed to appear at the Status Conference. The parties/counsel advised the Court of status and confer regarding viable case management dates. Counsel are directed to be guided by Local Civil Rule 16 in completing discovery and filing dispositive motions. Note that <u>all</u> depositions, discovery and perpetuation, must be completed before the discovery completion date.</p> <p>Jury instructions, if any, are to be filed with the Clerk of Court and shall include an original version and two copies thereof, each numbered sequentially and with citations, and one copy on plain white paper without numbering or citations. Counsel are advised that the Court will rely primarily upon the Manual of Model Jury Instructions for the Ninth Circuit in preparation of final instructions for submission to the jury.</p> <p>Counsel are advised that this case is one of several cases set for the week described below. Counsel must be prepared to commence trial as scheduled, but it must be understood that the trial may have to be continued. The Courtroom Deputy Clerk should be contacted as the trial date approaches for further information regarding the Court's trial calendar.</p>

		Pretrial and trial schedules are established as follows: COURT TRIAL is hereby set for 4/23/2012 at 9:30 AM in Courtroom 16206 before United States District Judge John C. Coughenour. Pretrial Order due by 4/13/2012. Pleading amendment/3rd pty action due by 6/24/2011. 39.1 mediation to be completed by 1/13/2012. Trial briefs to be submitted by 4/19/2012. (PP) (Entered: 03/15/2011)
02/25/2011	<u>62</u>	MINUTE ORDER by Judge John C Coughenour; The Court ORDERS parties to return for a Show Cause Hearing set for 3/15/2011 at 09:00 AM in Courtroom 16206 before Judge John C Coughenour.(TF) cc: S Tashiro-Townley (Entered: 02/25/2011)
02/23/2011	<u>61</u>	PRAECIPE TO ISSUE SUMMONS by Plaintiff Stephanie A Tashiro-Townley. (TF) clerk issued sms (Entered: 02/24/2011)
02/22/2011	<u>60</u>	REPLY, filed by Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc., TO RESPONSE to <u>39</u> MOTION to Dismiss <i>Amended Complaint</i> (Attachments: # <u>1</u> Certificate of Service)(Schaer, Joshua) (Entered: 02/22/2011)
02/21/2011	<u>59</u>	DECLARATION of Support for Response to Motion to Dismiss (duplicate only to file remaining exhibits) filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>39</u> MOTION to Dismiss <i>Amended Complaint</i> (Attachments: # <u>1</u> Exhibit Exhibit Q - CWL Inc. CA Entity, # <u>2</u> Exhibit Exhibit R - CWABS Inc. CA Entity, # <u>3</u> Exhibit Exhibit S - Litton Loan affidavit, # <u>4</u> Exhibit Exhibit X - form 938 2006 REMICs IRS, # <u>5</u> Exhibit Exhibit I-K - audits and affidavit, # <u>6</u> Exhibit Exhibit U - Bank of NY not registered in WA, # <u>7</u> Exhibit Exhibit U - Bank of NY Mellon not registered in WA, # <u>8</u> Exhibit Exhibit W - affidavit from NY service, # <u>9</u> Exhibit Exhibit Y - first discovery) (Tashiro-Townley, Stephanie) (Entered: 02/21/2011)
02/21/2011	<u>58</u>	DECLARATION of Support for Response to Motion to Dismiss filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>39</u> MOTION to Dismiss <i>Amended Complaint</i> (Attachments: # <u>1</u> Exhibit Exhibit A - Warranty Deed, # <u>2</u> Exhibit Exhibit B - Deed of Trust, # <u>3</u> Exhibit Exhibit C - Assignment of DOT, # <u>4</u> Exhibit Exhibit D - Appt of Successor Trustee, # <u>5</u> Exhibit Exhibit E - Notice of Default, # <u>6</u> Exhibit Exhibit F - Notice of Sale 2009, # <u>7</u> Exhibit Exhibit G - BAC letter 6232010, # <u>8</u> Exhibit Exhibit H - Amended Notice of Sale 2010, # <u>9</u> Exhibit Exhibit I-K - audits and affidavit, # <u>10</u> Exhibit Exhibit L - Letter from Schaer 1182010, # <u>11</u> Exhibit Exhibit N - Letter from Schaer 11302010, # <u>12</u> Exhibit Exhibit O - Micall Bachman VP BAC, # <u>13</u> Exhibit Exhibit P - Micall Bachman VP MERS)(Tashiro-Townley, Stephanie) (Entered: 02/21/2011)
02/21/2011	<u>57</u>	RESPONSE, by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley, to <u>39</u> MOTION to Dismiss <i>Amended Complaint</i> . (Tashiro-Townley, Stephanie) (Entered: 02/21/2011)
02/18/2011	<u>56</u>	RESPONSE, by Defendant BAC Home Loans Servicing L.P., to <u>47</u> MOTION to Amend <i>COMPLAINT (FIRST)</i> MOTION to Amend <i>COMPLAINT (FIRST)</i> . (Devlin, John) (Entered: 02/18/2011)

02/15/2011	<u>55</u>	NOTICE of <i>PROPOSED RUFFED FIRST AMENDED COMPLAINT</i> re <u>47</u> MOTION to Amend <i>COMPLAINT (FIRST)</i> MOTION to Amend <i>COMPLAINT (FIRST)</i> ; filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> PROPOSED RUFFED FIRST AMENDED COMPLAINT) (Tashiro-Townley, Stephanie) (Entered: 02/16/2011)
02/15/2011	<u>54</u>	ORDER by Judge John C Coughenour; The Court DENIES defts' <u>31</u> Motion for Sanctions; DENIES pltf's' <u>36</u> Motion for Extension of Time to Answer ; GRANTS the parties' <u>50</u> Stipulated Motion; dft's <u>45</u> MOTION to Dismiss <i>PURSUANT TO FED. R. CIV. P. 12(b)(6) OF DEFENDANT BAC HOME LOANS SERVICING, LP</i> : is RENOTED for 3/25/2011. (TF) cc: Tashiro-Townley (Entered: 02/15/2011)
02/15/2011	53	MINUTE ENTRY for proceedings held before Judge John C. Coughenour-Dep Clerk: <i>Paul Pierson</i> ; Pla Counsel: <i>Not Present</i> ; Def Counsel: <i>Josh Schaer; Abe Loeber</i> ; CR: <i>Barry Fanning</i> ; Time of Hearing: <i>9:00 a.m.</i> ; Courtroom: <i>16206</i> ; Status Conference held on 2/15/2011 and only counsel for the defendants make an appearance. The Court orders plaintiff's to show cause why this matter should not be dismissed for a lack of prosecution and for the parties to return for and Order to Show Cause Hearing set on 3/15/2011 at 09:00 AM in Courtroom 16206 before Judge John C. Coughenour. (PP) (Entered: 02/15/2011)
02/12/2011	<u>52</u>	NOTICE OF COMPLETION FOR NOTIFYING ALL DEFENDANTS COUNSEL OF STATUS CONFERENCE AND ORDER OF DISCOVERY AND DEPOSITIONS ; filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Tashiro-Townley, Stephanie) (Entered: 02/12/2011)
02/12/2011	<u>51</u>	NOTICE OF STATUS CONFERENCE AND ORDER OF DISCOVERY AND DEPOSITIONS FOR BACHL ; filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Tashiro-Townley, Stephanie) (Entered: 02/12/2011)
02/10/2011		***Motion terminated: Plt's <u>48</u> MOTION to Amend <u>47</u> MOTION to Amend <i>COMPLAINT (FIRST)</i> is construed by Court to be a Declaration in Support. (CG/TF) (Entered: 02/11/2011)
02/10/2011	<u>50</u>	Stipulated MOTION AND ORDER RE EXTENSION OF DEADLINES by Defendant BAC Home Loans Servicing L.P.. Noting Date 2/10/2011, (Devlin, John) (Entered: 02/10/2011)
02/10/2011	<u>49</u>	CORPORATE DISCLOSURE STATEMENT pursuant to FRCP 7.1. by BAC Home Loans Servicing L.P. Filed by Defendant BAC Home Loans Servicing L.P..(Devlin, John) (Entered: 02/10/2011)
02/10/2011	<u>48</u>	DECLARATION IN SUPPORT OF REQUEST FOR MOTION TO AMEND with all of the exhibits by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Exhibit EXHIBIT A- WARRANTY DEED, # <u>2</u> Exhibit EXHIBIT B - NOTICE OF DEFAULT, # <u>3</u> Exhibit EXHIBIT C - ASSIGNMENT OF DEED OF TRUST, # <u>4</u> Exhibit EXHIBIT D - APPOINTMENT OF SUCCESSOR TRUSTEE, # <u>5</u> Exhibit EXHIBIT E- NOTICE OF SALE, # <u>6</u> Exhibit EXHIBIT E- AMENDED NOTICE OF

		SALE, # <u>7</u> Exhibit EXHIBIT F- AFFIDAVIT OF SERVICE FROM BANK OF NEW YORK SERVER, # <u>8</u> Exhibit EXHIBIT G- 1182010 LETTER FROM RCO TO PLAINTIFFS, # <u>9</u> Exhibit EXHIBIT G- 1182010 LETTER FROM LITTON TO PLAINTIFFS, # <u>10</u> Exhibit EXHIBIT G- 11302010 LETTER FROM RCO TO PLAINTIFFS, # <u>11</u> Exhibit EXHIBIT H- DEED OF TRUST, # <u>12</u> Exhibit EXHIBIT I- FORM 938 FROM IRS REMIC TRUSTS 2005, # <u>13</u> Exhibit EXHIBIT I - FORM 938 FROM IRS REMIC TRUSTS 2006) Noting Date 2/25/2011. (Tashiro-Townley, Stephanie) Text Modified to rename document a Declaration on 2/11/2011 (CG/TF). (Entered: 02/10/2011)
02/09/2011	<u>47</u>	MOTION to Amend <i>COMPLAINT (FIRST)</i> by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Proposed Order PROPOSED ORDER, # <u>2</u> Supplement DECLARATION IN SUPPORT FOR MOTION TO AMEND) Noting Date 2/25/2011, (Tashiro-Townley, Stephanie) (Entered: 02/10/2011)
02/09/2011	<u>46</u>	MOTION for Extension of Time by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Proposed Order PROPOSED ORDER GRANTING EXTENSION OF TIME, # <u>2</u> Exhibit EXHIBIT G- 1182010 LETTER FROM LITTON LOAN TO PLAINTIFFS, # <u>3</u> Exhibit EXHIBIT A- WARRANTY DEED, # <u>4</u> Exhibit EXHIBIT C- ASSIGNMENT OF DEED OF TRUST, # <u>5</u> Exhibit EXHIBIT D- APPOINTMENT OF SUCCESSOR TRUSTEE, # <u>6</u> Exhibit EXHIBIT B- NOTICE OF DEFAULT, # <u>7</u> Exhibit EXHIBIT E- NOTICE OF SALE 82010, # <u>8</u> Exhibit EXHIBIT E- AMENDED NOTICE OF SALE 9142010, # <u>9</u> Exhibit EXHIBIT G- 1182010 LETTER FROM RCO TO PLAINTIFFS, # <u>10</u> Exhibit EXHIBIT G- 11302010 LETTER FROM RCO TO PLAINTIFFS, # <u>11</u> Exhibit EXHIBIT H- DEED OF TRUST, # <u>12</u> Supplement DECLARATION IN SUPPORT OF MOTION FOR EXTENSION OF TIME, # <u>13</u> Exhibit EXHIBIT F- AFFIDAVIT) Noting Date 2/25/2011, (Tashiro-Townley, Stephanie) (Entered: 02/09/2011)
02/04/2011	<u>45</u>	MOTION to Dismiss <i>PURSUANT TO FED. R. CIV. P. 12(b)(6) OF DEFENDANT BAC HOME LOANS SERVICING, LP</i> by Defendant BAC Home Loans Servicing L.P.. Oral Argument Requested. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Proposed Order GRANTING MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6) OF DEFENDANT BAC HOME LOANS SERVICING, LP) Noting Date 3/4/2011, (Devlin, John) (Entered: 02/04/2011)
02/03/2011	<u>44</u>	WITHDRAWAL of Motion re <u>43</u> MOTION to Dismiss <i>Pursuant to Fed. R. Civ. P. 12(B)(6) of Defendant BAC Home Loans Servicing, L.P.</i> MOTION to Dismiss <i>Pursuant to Fed. R. Civ. P. 12(B)(6) of Defendant BAC Home Loans Servicing, L.P.</i> ; by Defendant BAC Home Loans Servicing L.P.. (Devlin, John) (Entered: 02/03/2011)
02/03/2011	<u>43</u>	MOTION to Dismiss <i>Pursuant to Fed. R. Civ. P. 12(B)(6) of Defendant BAC Home Loans Servicing, L.P.</i> by Defendant BAC Home Loans Servicing L.P.. Oral Argument Requested. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Proposed Order) Noting Date 2/25/2011, (Devlin, John) (Entered: 02/03/2011)
02/03/2011	<u>42</u>	

		NOTICE of Appearance by attorney John S Devlin, III, Abraham K Lorber on behalf of Defendant BAC Home Loans Servicing L.P.. (Devlin, John) (Entered: 02/03/2011)
02/01/2011	<u>41</u>	RESPONSE, by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley, to <u>31</u> MOTION for Sanctions. (Attachments: # <u>1</u> JUDICIAL NOTICE, # <u>2</u> Exhibit RESPONSE EXHIBITS, # <u>3</u> Exhibit DECLARATION EXHIBITS, # <u>4</u> Exhibit DECLARATION IN SUPPORT OF RESPONSE)(Tashiro-Townley, Stephanie) (Entered: 02/01/2011)
02/01/2011	<u>40</u>	CERTIFICATE OF SERVICE by Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc. re <u>39</u> MOTION to Dismiss <i>Amended Complaint</i> . (Schaer, Joshua) (Entered: 02/01/2011)
02/01/2011	<u>39</u>	MOTION to Dismiss <i>Amended Complaint</i> by Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc.. (Attachments: # <u>1</u> Proposed Order) Noting Date 2/25/2011, (Schaer, Joshua) (Entered: 02/01/2011)
02/01/2011	<u>38</u>	DECLARATION of Mailing for Amended complaint to BofNY, Notifications of status conference and Order of Discovery and Depositions to Litton Loan and MERS re <u>13</u> Amended Complaint, <u>18</u> Discovery and Depositions Order, 17 JCC-Set Status Conference,,,,, by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Tashiro-Townley, Stephanie) (Entered: 02/01/2011)
01/28/2011		Noting Date Reset re Pltfs' <u>36</u> MOTION for Extension of Time to File Answer re <u>31</u> MOTION for Sanctions: Noting Date 2/11/2011. (TF) (Entered: 01/31/2011)
01/28/2011	<u>37</u>	AFFIDAVIT of Mailing of Summons and Complaint to STATE OF WA SECRETARY OF STATE EMPLOYEE SALLY WOODLEY MAILED SUMMONS AND COMPLAINT TO ROBERT JACOBSEN LAFAYETTE, CA on 1/18/2011, filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Tashiro-Townley, Stephanie) (Entered: 01/28/2011)
01/28/2011	<u>36</u>	MOTION for Extension of Time to File Answer re <u>31</u> MOTION for Sanctions by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Supplement DECLARATION IN SUPPORT OF MOTION FOR EXTENSION OF TIME, # <u>2</u> Proposed Order PROPOSED ORDER GRANTING EXTENSION OF TIME AND NEW NOTING DATE FOR DEFENDANTS' MOTION FOR SANCTIONS) Noting Date 2/4/2011, (Tashiro-Townley, Stephanie) (Entered: 01/28/2011)
01/19/2011	<u>35</u>	DECLARATION OF SERVICE OF SUMMONS and Complaint returned executed upon defendant Litton Loan Servicing, LP, Registered agent for BAC Home Loans and Registered agent of MERS on 1/14/2011. (CL) (Entered: 01/20/2011)
01/19/2011	<u>34</u>	AFFIDAVIT OF ATTEMPTED SERVICE of complaint and summons on the registered agend for Mortgage Electronic Registration Systems, Inc., (MERS), by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (CL) (Entered: 01/20/2011)

01/19/2011	<u>33</u>	CERTIFICATE OF SERVICE by Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc. re <u>32</u> Proposed Order (Unsigned), <u>31</u> MOTION for Sanctions. (Schaer, Joshua) (Entered: 01/19/2011)
01/19/2011	<u>32</u>	PROPOSED ORDER (Unsigned) re <u>31</u> MOTION for Sanctions. (Schaer, Joshua) (Entered: 01/19/2011)
01/19/2011	<u>31</u>	MOTION for Sanctions by Defendants Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc.. Noting Date 2/4/2011, (Schaer, Joshua) (Entered: 01/19/2011)
01/18/2011	<u>30</u>	NOTICE of Appearance by attorney Joshua Schaer on behalf of Defendants Mortgage Electronic Registration Systems, Inc., Litton Loan Servicing, LP. (Schaer, Joshua) (Entered: 01/18/2011)
01/06/2011	<u>29</u>	MINUTE ORDER by Judge John C Coughenour, United States District Judge; The Court STRIKES deft's <u>11</u> Motion to Dismiss; STRIKES AS MOOT pltfs' <u>21</u> Motion for Leave to File Excess Pages; GRANTS pltfs' <u>22</u> Motion to Amend Complaint; and STRIKES AS DUPLICATIVE pltfs' <u>23</u> Second Motion to Amend. Counsel is directed to e-file their Amended Complaint. (TF) cc Tashiro-Townley (Entered: 01/06/2011)
12/24/2010	<u>28</u>	CERTIFICATE OF SERVICE by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> , <u>23</u> MOTION to Amend <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> , <u>13</u> Amended Complaint, MOTION to Amend <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> , <u>13</u> Amended Complaint,, Set/Reset Motion Noting Date (Public Entry; notice to parties) <i>DECLARATION OF SERVICE VIA ECF ON 12/9</i> . (Tashiro-Townley, Stephanie) (Entered: 12/24/2010)
12/24/2010	<u>27</u>	CERTIFICATE OF SERVICE by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>18</u> Discovery and Depositions Order, <u>24</u> Notice-Other, 17 JCC-Set Status Conference,,,,, <i>DECLARATION OF MAILING (although served via ECF on 12/17)</i> . (Tashiro-Townley, Stephanie) (Entered: 12/24/2010)
12/24/2010	<u>26</u>	CERTIFICATE OF SERVICE by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> , <u>23</u> MOTION to Amend <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> , <u>13</u> Amended Complaint, MOTION to Amend <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> , <u>13</u> Amended Complaint,, Set/Reset Motion Noting Date (Public Entry; notice to parties) <i>DECLARATION OF MAILING</i> . (Tashiro-Townley, Stephanie) (Entered: 12/24/2010)
12/17/2010	<u>25</u>	PRAECIPE TO ISSUE SUMMONS. Clerk issued sms.(CL) (Entered: 12/20/2010)
12/17/2010	<u>24</u>	NOTICE to Defendants re <u>18</u> Discovery and Depositions Order, 17 JCC-Set Status Conference,,,,, ; filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Notification of Scheduling Conference 2/15/11 and Order for Discovery and Depositions)(Tashiro-Townley, Stephanie) (Entered: 12/17/2010)

12/10/2010		Noting Date Reset re pltf's <u>23</u> MOTION to Amend <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> : Noting Date 12/31/2010. (TF) (Entered: 12/13/2010)
12/10/2010	<u>23</u>	MOTION to Amend <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> , <u>13</u> Amended Complaint, by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Plaintiffs Proposed Order to Leave to Amend) Noting Date 12/10/2010, (Tashiro-Townley, Stephanie) (Entered: 12/10/2010)
12/09/2010		Noting Date Reset re pltf's <u>22</u> Emergency MOTION to Amend <i>Complaint C10-1720</i> : Noting Date 12/24/2010. (CG/TF) (Entered: 12/13/2010)
12/09/2010	<u>22</u>	Emergency MOTION to Amend <i>Complaint C10-1720</i> by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Declaration in support of motion to amend, # <u>2</u> Judicial Notice from Plaintiffs) Noting Date 12/10/2010, (Tashiro-Townley, Stephanie) (Entered: 12/10/2010)
12/08/2010	<u>21</u>	Emergency MOTION for Leave to File Excess Pages <i>in Response & Motion to Extend Time Nunc Pro Tunc</i> by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Declaration in support of Motion to Extend Time (Nunc Pro Tunc) and Allow for Filing Excess Papers, # <u>2</u> Proposed Order Proposed Order for Extending Time (Nunc Pro Tunc) and Allowing for the Excess Paper Response) Noting Date 12/10/2010, (Tashiro-Townley, Stephanie) (Entered: 12/09/2010)
12/08/2010	<u>20</u>	CERTIFICATE OF SERVICE by Defendant Bank of New York Mellon re <u>19</u> Reply to Response to Motion. (Schaer, Joshua) (Entered: 12/08/2010)
12/08/2010	<u>19</u>	REPLY, filed by Defendant Bank of New York Mellon, TO RESPONSE to <u>11</u> MOTION to Dismiss (Schaer, Joshua) (Entered: 12/08/2010)
12/08/2010	<u>18</u>	ORDER REGARDING DISCOVERY AND DEPOSITIONS by U.S. District Judge John C. Coughenour. (PP) (Entered: 12/08/2010)
12/08/2010	<u>17</u>	MINUTE ENTRY setting a SCHEDULING CONFERENCE. The attorney who will be responsible for trying the case shall attend the conference and be prepared to discuss the following matters at the conference: 1. The nature of the case; 2. The status of matters which are presently set before the Court, e.g., hearings, motions, etc.; 3. The status of discovery and a time schedule for its completion; 4. A statement of any legal issues about which motions are contemplated and a possible briefing schedule; 5. An estimate of the number of days needed for trial; 6. Whether the case will proceed via a court or jury trial; 7. The date by which the case will be ready for trial, and 8. Settlement probabilities. Counsel for all parties are required to appear at the conference. If counsel's office is outside of the Greater-Seattle metropolitan area, arrangements may be made for telephonic participation in the conference at least one (1) week in advance of the proceeding. If counsel wish to make such arrangements, they should contact the Courtroom Deputy at (206)370-8805. A SCHEDULING CONFERENCE is now set for 2/15/2011 at 9:00 a.m. in Courtroom 16206 before U.S. District Judge John C. Coughenour. COUNSEL FOR THE PLAINTIFF IS DIRECTED TO NOTIFY ALL

		PARTIES OF THE DATE AND TIME OF THE SCHEDULING CONFERENCE. (PP) (Entered: 12/08/2010)
12/08/2010	<u>16</u>	RESPONSE, by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley, to <u>11</u> MOTION to Dismiss. (Attachments: # <u>1</u> Exhibit Townley Deed of Trust, # <u>2</u> Exhibit BAC letter dated 6/23/2010)(Tashiro-Townley, Stephanie) (Entered: 12/08/2010)
12/07/2010	<u>15</u>	AFFIDAVIT filed by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley re <u>14</u> Response to Motion,,,, <i>From Laura Mathews regarding Forensic Audit and Securitization Audit</i> (Attachments: # <u>1</u> Exhibit Forensic Audit, Securitization Audit and attached Affidavits from Laura Mathews) (Tashiro-Townley, Stephanie) (Entered: 12/08/2010)
12/07/2010	<u>14</u>	RESPONSE, by Plaintiffs Stephanie A Tashiro-Townley, Scott C Townley, to <u>11</u> MOTION to Dismiss. (Attachments: # <u>1</u> Declaration of Plaintiffs in Support of Response of Motion to Dismiss, # <u>2</u> Exhibit Warranty Deed, # <u>3</u> Exhibit Assignment of Deed of Trust, # <u>4</u> Exhibit Appointment of Successor Trustee, # <u>5</u> Exhibit Notice of Default, # <u>6</u> Exhibit Notice of Sale in 2009, # <u>7</u> Exhibit Amended Notice of Sale 2010, # <u>8</u> Exhibit Letter to Trustees from AG, # <u>9</u> Exhibit Letter from J. Schaer on Nov 8, 2010, # <u>10</u> Exhibit Letter from J. Schaer on Nov 30, 2010, # <u>11</u> Exhibit Micall Bachman signing as MERS, # <u>12</u> Exhibit Certificate from BAC Home Loans showing M Bachman VP, # <u>13</u> Exhibit CWL Inc. Corporation Search, # <u>14</u> Exhibit CWABS Inc. Corporation Search, # <u>15</u> Exhibit Motion for Relief of Stay (from Chapter 13 #09-21220), # <u>16</u> Exhibit Affidavit of Richard Williams Litton Loan (from Chapter 13 #09-21220), # <u>17</u> Exhibit Registered agent search WA state for Bank of New York, # <u>18</u> Exhibit Registered agent search WA state for Bank of New York Mellon, # <u>19</u> Exhibit New York Summons Affidavit of Service)(Tashiro-Townley, Stephanie) (Entered: 12/07/2010)
12/07/2010	<u>13</u>	AMENDED COMPLAINT <i>C10-1720</i> against defendant(s) Bank of New York Mellon with JURY DEMAND, filed by Stephanie A Tashiro-Townley, Scott C Townley.(Tashiro-Townley, Stephanie) (Entered: 12/07/2010)
11/22/2010		Noting Date Reset: <u>11</u> MOTION to Dismiss : Noting Date 12/10/2010. (CL) (Entered: 11/22/2010)
11/18/2010	<u>12</u>	CERTIFICATE OF SERVICE by Defendant Bank of New York Mellon re <u>11</u> MOTION to Dismiss. (Schaer, Joshua) (Entered: 11/18/2010)
11/18/2010	<u>11</u>	MOTION to Dismiss by Defendant Bank of New York Mellon. (Attachments: # <u>1</u> Proposed Order) Noting Date 12/3/2010, (Schaer, Joshua) (Entered: 11/18/2010)
11/16/2010	<u>10</u>	COMPLAINT against defendant Bank of New York Mellon, filed by Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Civil Cover Sheet) (Receipt: IFP/approved) (Blank Summons sent to pltf s to be filled out and return for issuance by the Court) (CL) (Entered: 11/16/2010)
11/16/2010	<u>9</u>	ORDER Granting <u>5</u> , <u>6</u> Motions for Leave to Proceed in forma pauperis; by Hon. Brian A Tsuchida. (cc: pltf S. Townley)(CL) (Entered: 11/16/2010)

11/15/2010	<u>8</u>	NOTICE of Appearance by attorney Joshua Schaer on behalf of Defendant Bank of New York Mellon. (Schaer, Joshua) (Entered: 11/15/2010)
11/10/2010	<u>7</u>	AFFIDAVIT OF SERVICE OF SUMMONS and Verified Complaint for Quiet Title returned executed upon defendant Bank of New York Mellon on 11/2/10. (TF) (Entered: 11/12/2010)
11/10/2010	<u>6</u>	MOTION for Leave to Proceed in forma pauperis, Pro Se filed by Scott C Townley.(TF) (Entered: 11/12/2010)
11/10/2010	<u>5</u>	MOTION for Leave to Proceed in forma pauperis, filed by Pltf Pro Se Stephanie A Tashiro-Townley.(TF) (Entered: 11/12/2010)
10/28/2010	<u>3</u>	MINUTE ORDER directing that each plaintiff complete the IFP form by Hon. Brian A Tsuchida. (RS)cc pltf s w/IFP forms (Entered: 10/29/2010)
10/27/2010		MOTION REFERRED TO JUDGE TSUCHIDA: re <u>1</u> MOTION for Leave to Proceed in forma pauperis filed by Scott C Townley, Stephanie A Tashiro-Townley (PM) (Entered: 10/27/2010)
10/27/2010	<u>1</u>	MOTION for Leave to Proceed in forma pauperis before Judge Tsuchida, filed by Stephanie A Tashiro-Townley, Scott C Townley. (Attachments: # <u>1</u> Complaint, # <u>2</u> Civil Cover Sheet)(PM) (Entered: 10/27/2010)

PACER Service Center			
Transaction Receipt			
09/24/2014 12:49:06			
PACER Login:	th9598:3667811:0	Client Code:	
Description:	Docket Report	Search Criteria:	2:10-cv-01720-JCC
Billable Pages:	16	Cost:	1.60

**General Docket
United States Court of Appeals for the Ninth Circuit**

Court of Appeals Docket #: 11-35819 **Docketed:** 10/03/2011
Nature of Suit: 3290 Other Real Property Actions **Termed:** 01/27/2014
Stephanie Tashiro-Townley, et al v. Bank of New York Mellon, et al
Appeal From: U.S. District Court for Western Washington, Seattle
Fee Status: IFP

Case Type Information:

- 1) civil
- 2) private
- 3) null

Originating Court Information:

District: 0981-2 : 2:10-cv-01720-JCC
Court Reporter: Barry L. Fanning, Court Reporter
Trial Judge: John C. Coughenour, Senior District Judge
Date Filed: 10/22/2010

Date Order/Judgment: 09/23/2011	Date Order/Judgment EOD: 09/23/2011	Date NOA Filed: 09/30/2011	Date Rec'd COA: 10/01/2011
---	---	--------------------------------------	--------------------------------------

STEPHANIE TASHIRO-TOWNLEY
Plaintiff - Appellant,

Stephanie Tashiro-Townley
Direct: 425-413-2637
[NTC Pro Se]
23639 SE 267th Place
Maple Valley, WA 98038

SCOTT C TOWNLEY
Plaintiff - Appellant,

Scott C. Townley
[NTC Pro Se]
23639 SE 267th Place
Maple Valley, WA 98038

v.

BANK OF NEW YORK MELLON, as Trustee for the
Certificateholders CWL, Inc. Asset Backed Certificates, Series
2005-10, FKA Bank of New York
Defendant - Appellee,

Robert W. Norman, Jr., Attorney
Direct: 949-679-1111
[COR NTC Retained]
Houser & Allison, APC
9970 Research Drive
Irvine, CA 92618

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
Defendant - Appellee,

Robert W. Norman, Jr., Attorney
Direct: 949-679-1111
[COR NTC Retained]
(see above)

LITTON LOAN SERVICING, LP
Defendant - Appellee,

Robert W. Norman, Jr., Attorney
Direct: 949-679-1111
[COR NTC Retained]
(see above)

STEPHANIE TASHIRO-TOWNLEY; SCOTT C TOWNLEY,

Plaintiffs - Appellants,

v.

BANK OF NEW YORK MELLON, as Trustee for the Certificateholders CWL, Inc. Asset Backed Certificates, Series 2005-10, FKA Bank of New York; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; LITTON LOAN SERVICING, LP,

Defendants - Appellees.

10/03/2011	<input type="checkbox"/> <u>1</u> 27 pg, 424.83 KB	DOCKETED CAUSE AND ENTERED APPEARANCES OF APLTS IN PRO PER AND COUNSEL FOR APLES. SEND MQ: No. The schedule is set as follows: Transcript ordered by 10/31/2011. Transcript due 11/29/2011. Appellants Stephanie A Tashiro-Townley, Scott C Townley opening brief due 01/09/2012. Appellees Bank of New York Mellon, Litton Loan Servicing, LP, Mortgage Electronic Registration Systems, Inc. answering brief due 02/07/2012. Appellant's optional reply brief is due 14 days after service of the answering brief. [7913423] (KM)
10/04/2011	<input type="checkbox"/> <u>2</u> 2 pg, 106.41 KB	Filed referral notice (Deputy Clerk:CKP): Referring to the district court for determination whether in forma pauperis status should continue for this appeal. [7916595] (CKP)
10/17/2011	<input type="checkbox"/> <u>3</u> 2 pg, 89.56 KB	Received copy of District Court order filed on 10/17/2011. It is the determination of this Court that in forma pauperis shall continue. [7932357] (EL)
10/19/2011	<input type="checkbox"/> <u>4</u> 3 pg, 111.2 KB	CLERK ORDER FILED (Deputy Clerk CKP) Prisoner fee authorization form sent to prisoner. [7935291] (CKP)
12/14/2011	<input type="checkbox"/> <u>5</u> 1 pg, 22.63 KB	Filed clerk order (Deputy Clerk: MF): The October 19, 2011 order is vacated as issued in error. The briefing schedule established on October 3, 2011 shall continue to govern this appeal. [8000842] (AF)
12/21/2011	<input type="checkbox"/> <u>6</u> 42 pg, 6.53 MB	Filed (ECF) Appellants Mrs. Stephanie Tashiro-Townley and Scott C Townley Motion to extend time to file Opening brief until 03/12/2012 at 11:59 pm. Date of service: 12/21/2011. [8007776] (ST)
12/21/2011	<input type="checkbox"/> <u>7</u> 6 pg, 107.18 KB	Filed (ECF) Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. response to motion (,motion to extend time to file brief). Date of service: 12/21/2011. [8008178] (JS)
12/22/2011	<input type="checkbox"/> <u>8</u> 1 pg, 24 KB	Filed clerk order (Deputy Clerk: LKK): Appellants' opposed motion for an extension of time to file the opening brief is granted. The opening brief is due March 12, 2012. The answering brief is due April 11, 2012. The optional reply brief is due within 14 days after service of the answering brief. Any further request for an extension of time to file the opening brief is disfavored. [8009697] (AF)
03/11/2012	<input type="checkbox"/> <u>9</u> 20 pg, 2.39 MB	Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Motion to stay proceedings. Date of service: 03/11/2012. [8098637] (ST)
03/26/2012	<input type="checkbox"/> <u>10</u> 8 pg, 265.55 KB	Filed (ECF) notice of appearance of ROBERT W. NORMAN, JR. for Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc.. Date of service: 03/26/2012. [8117576] (RWN)
03/27/2012	<input type="checkbox"/> <u>11</u>	Added attorney Robert W. Norman Jr. for Bank of New York Mellon Litton Loan Servicing, LP Mortgage Electronic Registration Systems, Inc., in case 11-35819. [8117659] (CW)
03/28/2012	<input type="checkbox"/> <u>12</u> 2 pg, 26.17 KB	Filed clerk order (Deputy Clerk: LK): Appellants' motion to stay proceedings pending the district court's decision in appellants Federal Rule Civil Procedure 60(b)(2)&(3) motion is denied without prejudice to a renewed motion that states that the district court has indicated it would be inclined to consider the proposed Rule 60(b) motion. Additionally, appellants are informed that pursuant to Federal Rule Appellate Procedure 12.1, the district court lack jurisdiction to consider the Rule 60(b) motion absent a limited remand from this court. Within 28 days after the date of this order, appellants shall file the renewed motion or the opening brief. The answering brief is due within 30 days after service of the opening brief. The optional reply brief is due within 14 days after service of the answering brief. [8119539] (SM)
03/28/2012	<input type="checkbox"/> <u>13</u> 6 pg, 264.31 KB	Filed (ECF) Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. Stipulated Motion to substitute counsel. Date of service: 03/28/2012. [8120159] (RWN)
03/28/2012	<input type="checkbox"/> <u>14</u>	Terminated Joshua Schaefer for Mortgage Electronic Registration Systems, Inc., Litton Loan Servicing, LP and Bank of New York Mellon in 11-35819 [8120185] (EL)
04/18/2012	<input type="checkbox"/> <u>15</u> 22 pg, 973.72 KB	Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Motion to extend time to file Opening brief until 05/21/2012 at 11:59 pm. Date of service: 04/18/2012. [8145501] (ST)
05/07/2012	<input type="checkbox"/> <u>16</u> 1 pg, 23.91 KB	Filed clerk order (Deputy Clerk: LKK): Appellants' motion for an extension of time to file the opening brief is granted. The opening brief is due May 25, 2012. The answering brief is due June 24, 2012. The optional reply brief is due within 14 days after service of the answering brief. [8167930] (AF)
05/18/2012	<input type="checkbox"/> <u>17</u> 15 pg, 1.16 MB	Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Motion to extend time to file Opening brief until 06/22/2012 at 11:59 pm. Date of service: 05/18/2012. [8184491] (ST)
05/24/2012	<input type="checkbox"/> <u>18</u> 1 pg, 23.71 KB	Filed clerk order (Deputy Clerk: LKK): Appellants' motion for a second extension of time to file the opening brief is granted. The opening brief is due June 22, 2012. The answering brief is due July 23, 2012. The optional reply brief is due within 14 days after service of the answering brief. [8190315] (AF)
06/15/2012	<input type="checkbox"/> <u>19</u> 13 pg, 587.17 KB	Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Motion to extend time to file Opening brief until 07/23/2012 at 11:59 pm. Date of service: 06/15/2012. [8216993] (ST)
06/18/2012	<input type="checkbox"/> <u>20</u> 6 pg, 270.29 KB	Filed (ECF) Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. response to motion (,motion to extend time to file brief). Date of service: 06/18/2012. [8218626] (RWN)

06/18/2012 21 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Correspondence: Declaration of Mailing to be attached to Motion for Extension of Time filed on 6/15/2012 (already served on Appellee). Date of service: 06/15/2012 [8218784] (ST)
2 pg, 29.81 KB

06/22/2012 22 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley reply to response (). Date of service: 06/22/2012. [8225730] (ST)
9 pg, 814.39 KB

06/23/2012 23 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Correspondence: 6/22/2012 - Certificate of Service and Declaration of Mailing of Reply to Appellees Response to Motion for Extension for time. Date of service: 06/22/2012 [8225765] (ST)
3 pg, 106.18 KB

07/12/2012 24 Filed order (Appellate Commissioner) Appellants' opposed motion for a third extension of time to file the opening brief is granted. The opening brief is due July 23, 2012. The answering brief is due August 22, 2012. The optional reply brief is due within 14 days after service of the answering brief. Any further request for an extension of time to file the opening brief is disfavored. Appellees' motion to dismiss is denied. Appellees are reminded of the obligation to identify in the caption any request for affirmative relief. Fed. R. App. P. 27 (a) (3)(B). (Pro Mo) [8247186] (LRB)
2 pg, 25 KB

07/16/2012 25 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Motion to extend time to file Opening brief until 09/21/2012 at 11:59 pm. Date of service: 07/16/2012. [8252275] (ST)
15 pg, 638.42 KB

07/16/2012 26 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Motion to supplement record on appeal. Date of service: 07/16/2012. [8252278] (ST)
14 pg, 559.27 KB

08/09/2012 27 Filed order (Appellate Commissioner) Appellants' motion for a fourth extension of time to file the opening brief is granted. The opening brief is due September 21, 2012. The answering brief is due October 22, 2012. The optional reply brief is due within 14 days after service of the answering brief. Any further request for an extension of time to file the opening brief is disfavored. Appellants' motion to consolidate and supplement the record is denied. Williams v. Woodford, 384 Federal Rule of Appellate Procedure 3d 567, 586 (9th Cir. 2004) (order in response to Federal Rule Civil Procedure 60(b) is nullity in absence of a limited remand). (Pro Mo) [8282215] (MS)
1 pg, 30.29 KB

09/05/2012 28 Received Appellant Scott C Townley's notice regarding designation of record. [8311079] (EL)
14 pg, 1.01 MB

09/21/2012 29 Submitted (ECF) Opening brief for review. Submitted by Appellant Mrs. Stephanie Tashiro-Townley. Date of service: 09/21/2012. [8333701]-[COURT UPDATE: Attached separately-filed cert of service, resent notice. 09/24/2012 by ASW] (ST)
30 pg, 518.62 KB

09/22/2012 30 COURT DELETED INCORRECT/DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [29]. Original Text: Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Correspondence: Certificate of Service (inadvertently left off of filing for Opening Brief). Date of service: 09/21/2012 [8333705] (ST)

09/24/2012 31 Filed clerk order: The opening brief [29] submitted by Mrs. Stephanie Tashiro-Townley and Scott C Townley is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [8334201] (WP)
2 pg, 83.13 KB

10/01/2012 32 Received Appellants Mrs. Stephanie Tashiro-Townley and Scott C Townley excerpts of record in 1 volume. Served on 09/24/2012. Deficiencies: excerpts lack consecutive page numbers, excerpts are oversized, excerpts lack an index. Notified appellant (See attached notice). [8345960] (WP)
2 pg, 192.71 KB

10/03/2012 33 COURT DELETED INCORRECT ENTRY. Filed in wrong case; meant for 12-60001. Notice about deletion sent to case participants registered for electronic filing. Original Text: Submitted (ECF) Reply brief for review. Submitted by Appellant Mrs. Stephanie Tashiro-Townley. Date of service: 10/03/2012. [8347544] (ST)

10/10/2012 34 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Correspondence: Judicial Notice re: issue with Appellees receipt of Appellants' excerpts. Date of service: 10/10/2012 [8355346] (ST)
4 pg, 434.09 KB

10/11/2012 35 Received 7 paper copies of Opening brief [29] filed by Mrs. Stephanie Tashiro-Townley and Scott C Townley. [8356574] (SD)

10/12/2012 36 Filed Appellants Mrs. Stephanie Tashiro-Townley and Scott C Townley excerpts of record in 1 volume. Served on 10/10/2012. [8360973] (WP)

10/16/2012 37 14 day oral extension by phone of time to file Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. brief. Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. answering brief due 11/05/2012. The optional reply brief is due 14 days after service of the appellee brief. [8362891] (KM)

10/16/2012 38 Filed (ECF) Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. Correspondence: Appellees' Extension of Time to File Answering Brief. Date of service: 10/16/2012 [8363138] (RWN)
2 pg, 156.62 KB

10/25/2012 39 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Correspondence: Notice of Clarification regarding timely, original submittal of 7 copies of opening brief. Date of service: 10/24/2012 [8375836] (ST)
4 pg, 231.63 KB

11/01/2012 40 Filed (ECF) Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. Motion to extend time to file Answering brief until 12/20/2012. Date of service: 11/01/2012. [8385408]--[COURT UPDATE: Attached separately-filed declaration, resent notice. 11/02/2012 by ASW] (RWN)
8 pg, 787.72 KB

11/01/2012 41 COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [40]. Original Text: Filed (ECF) Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. Motion to extend time to file Answering brief until 12/20/2012. Date of service: 11/01/2012. [8385410] (RWN)

11/02/2012 42 Filed clerk order (Deputy Clerk: LKK): Granting Motion (ECF Filing) Appellees' motion for an extension of time to file the answering brief is granted. The answering brief due 12/20/2012. The optional reply brief is due 14 days after service of the answering brief. [8387032] (LKK)
1 pg, 84.59 KB

12/20/2012 43 Submitted (ECF) Answering brief for review. Submitted by Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc.. Date of service: 12/20/2012. [8448873] --[COURT UPDATE: replaced PDF w/searchable version with statement of rel cases, footnote font size, resent notice. 12/26/2012 by ASW] (RWN)
41 pg, 281.17 KB

12/21/2012 44 Deleted Incorrect Entry ***** COURT DELETED INCORRECT/DUPLICATE ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [46]. Original Text: Received Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. appendix served on 12/20/2012 [8450601] (WP)

12/21/2012 46 Received Appellees Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. supplemental excerpt of record on appeal in 1 volume. Served on 12/20/2012. Deficiencies: incorrect color covers. Notified counsel (see attached notice). [8457819]--[COURT UPDATE: To attach supplemental excerpts; resent NDA - 01/02/2013 by HH] (WP)
41 pg, 5.22 MB

12/26/2012 45 Filed clerk order: The answering brief [43] submitted by Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc. is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: red. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [8453259] (LA)
2 pg, 8.48 KB

01/02/2013 47 Received 7 paper copies of Answering brief [43] filed by Bank of New York Mellon, Litton Loan Servicing, LP and Mortgage Electronic Registration Systems, Inc.. [8458120] (SD)

01/03/2013 48 Submitted (ECF) Reply brief for review. Submitted by Appellant Mrs. Stephanie Tashiro-Townley. Date of service: 01/03/2013. [8460906] (ST)
19 pg, 815.9 KB

01/04/2013 49 Filed clerk order: The reply brief [48] submitted by Mrs. Stephanie Tashiro-Townley is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: not applicable. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [8461173] (WP)
2 pg, 83.07 KB

01/10/2013 50 Received 7 paper copies of Reply brief [48] filed by Mrs. Stephanie Tashiro-Townley. [8469628] (SD)

05/13/2013 51 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley citation of supplemental authorities. Date of service: 05/13/2013. [8627020] (ST)
4 pg, 504.04 KB

10/28/2013 52 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley citation of supplemental authorities. Date of service: 10/28/2013. [8838301] (ST)
4 pg, 506.36 KB

11/08/2013 53 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley citation of supplemental authorities. Date of service: 11/08/2013. [8857144] (ST)
18 pg, 891.23 KB

11/08/2013 54 Filed (ECF) Appellees Bank of New York Mellon, Litton Loan Servicing, LP and MERS Correspondence: Response to Appellant's Supplemental Authorities Filed on 5/13/13, 10/28/13 and 11/8/13. Date of service: 11/08/2013 [8857520]--[COURT UPDATE: Attached searchable version of letter. Resent NDA. 11/12/2013 by RY] (RWN)
1 pg, 123.49 KB

11/12/2013 55 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Correspondence: Reply in Objection to Appellee Response to Supplemental Authorities (Dkt. #54) filed 11/8/2013. Date of service: 11/11/2013 [8857708] (ST)
3 pg, 380.1 KB

11/12/2013 56 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley citation of supplemental authorities. Date of service: 11/11/2013. [8857709] (ST)
4 pg, 381.11 KB

11/12/2013 57 Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley citation of supplemental authorities. Date of service: 11/11/2013. [8857710] (ST)
3 pg, 370.64 KB

11/12/2013

	<input type="checkbox"/> <u>58</u> 3 pg, 374.98 KB	Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley citation of supplemental authorities. Date of service: 11/11/2013. [8857711] (ST)
11/12/2013	<input type="checkbox"/> <u>59</u> 12 pg, 471.93 KB	Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley Correspondence: Pamphlet containing updated legislative language in 61.24 statutes per FRAP 28(f). Date of service: 11/11/2013 [8857712] (ST)
11/12/2013	<input type="checkbox"/> <u>60</u> 17 pg, 738.69 KB	Filed Appellant Scott C Townley's third statement of additional authorities. Served on 11/08/2013. (records for merits panel) [8859531] (EL)
11/14/2013	<input type="checkbox"/> <u>61</u> 16 pg, 785.97 KB	Received Appellant Mrs. Stephanie Tashiro-Townley's reply to appellee response to appellant's supplemental authorities. [8862679] (records for merits panel) (EL)
01/27/2014	<input type="checkbox"/> <u>62</u> 8 pg, 444.71 KB	FILED MEMORANDUM (WILLIAM C. CANBY, BARRY G. SILVERMAN and RICHARD A. PAEZ) Each party shall bear its own costs on appeal. AFFIRMED in part, VACATED in part, and REMANDED. FILED AND ENTERED JUDGMENT. [8952994] (ME)
02/04/2014	<input type="checkbox"/> <u>63</u> 20 pg, 1.19 MB	Filed (ECF) Appellant Mrs. Stephanie Tashiro-Townley motion for reconsideration of dispositive Judge Order of 01/21/2014. Date of service: 02/04/2014. [8966136] (ST)
02/05/2014	<input type="checkbox"/> <u>66</u>	Mail returned on 02/05/2014 addressed to Scott C Townley, re: Memorandum filed 01/27/2014. Resending to: Case Files. Unable to locate party. [9000563] (ME)
02/20/2014	<input type="checkbox"/> <u>64</u> 1 pg, 83.02 KB	MANDATE ISSUED. (WCC, BGS and RAP) [8984741] (MT)
02/20/2014	<input type="checkbox"/> <u>65</u> 1 pg, 82.22 KB	Filed clerk order (Deputy Clerk: MT): to recall the mandate [8985724] (MT)
03/06/2014	<input type="checkbox"/> <u>67</u>	Mail returned on 03/06/2014 addressed to Scott C Townley in 11-35819, re: 11-35819- 2/20/14 Mandate & 2/20/14 Order , 12-60001 Mandate. Resending to: Return to sender. Unable to forward. (CASEFILES). [9005157] [11-35819, 12-60001] (WL)
05/28/2014	<input type="checkbox"/> <u>68</u> 1 pg, 32.81 KB	Filed order (WILLIAM C. CANBY, BARRY G. SILVERMAN and RICHARD A. PAEZ) We treat plaintiffs' motion for reconsideration as a petition for panel rehearing, and deny the petition. No further filings will be entertained in this closed case. [9111371] (JO)
06/06/2014	<input type="checkbox"/> <u>69</u> 1 pg, 84.01 KB	MANDATE ISSUED. (WCC, BGS and RAP) [9122487] (RL)
06/06/2014	<input type="checkbox"/> <u>70</u>	Mail returned on 06/06/2014 addressed to Scott C Townley, re: Order filed 5/28/2014. Resending to: Return to sender; Unable to forward; Mandate issued. (CASEFILES) [9123150] (AF)
06/16/2014	<input type="checkbox"/> <u>71</u>	Mail returned on 06/16/2014 addressed to Scott C Townley, re: 6/6/14 Mandate. Resending to: Return to sender. Unable to forward. (CASEFILES). [9133772] (WL)

Clear All

- Documents and Docket Summary
- Documents Only

Include Page Numbers

Selected Pages: Selected Size:

View Selected

PACER Service Center			
Transaction Receipt			
U.S. Court of Appeals for the 9th Circuit - 09/24/2014 13:02:20			
PACER Login:	th9598:3667811:0	Client Code:	
Description:	Docket Report (filtered)	Search Criteria:	11-35819
Billable Pages:	6	Cost:	0.60