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NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JEAN MARIE BARTON;
BYRON LEE BARTON,
individually and on behalf of
all others similarly situated,

Plaintiffs-Appellants,

v.

QUALITY LOAN SERVICE
CORP OF WASHINGTON;
TRIANGLE PROPERTY
OF WASHINGTON,

Defendants-Appellees.

No. 18-35798

D.C. No. 2:17-cv-
01100-RAJ

MEMORANDUM*

(Filed Sep. 17, 2020)

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted September 8, 2020**

Before: TASHIMA, SILVERMAN, and OWENS, Circuit
Judges.

Jean Marie Barton and Byron Lee Barton appeal
pro se from the district court's judgment dismissing

* This disposition is not appropriate for publication and is
not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for
decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

their action alleging federal and state law claims arising out of foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002) (dismissal based on claim preclusion); *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (sua sponte dismissal under Fed. R. Civ. P. 12(b)(6)). We affirm.

The district court properly dismissed the Bartons' action on the basis of res judicata because the Bartons' claims were raised or could have been raised in previous actions between the parties that resulted in final adjudications on the merits. See *San Diego Police Officers' Ass'n v. San Diego City Emps.' Ret. Sys.*, 568 F.3d 725, 734 (9th Cir. 2009) (federal court must follow state's preclusion rules to determine effect of a state court judgment); *Ofuasia v. Smurr*, 392 P.3d 1148, 1154 (2017) (elements of res judicata under Washington law).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. See *Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.

THE HONORABLE RICHARD A. JONES
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEAN MARIE BARTON,) No. 2:17-cv-01100
BYRON LEE BARTON,) RAJ
INDIVIDUALLY AND ON)
BEHALF OF ALL OTHERS) ORDER
SIMILARLY SITUATED,) (Filed Sep. 6, 2018)
Plaintiffs,)
v.)
JPMORGAN CHASE BANK,)
N.A., QUALITY LOAN)
SERVICE CORP. OF)
WASHINGTON AND)
TRIANGLE PROPERTY)
OF WASHINGTON,)
Defendants.)

On May 11, 2018, this Court granted Defendant JPMorgan Chase, Bank, N.A.'s ("Chase") Motion to Dismiss, finding that Plaintiffs' claims were barred by res judicata. Dkt. # 26. On July 12, 2018, Chase filed a Motion for Entry of Separate Judgment under Fed. R. Civ. P. 54 and 58. Dkt. # 27.

On August 14, 2018, this Court granted Chase's Motion and entered final judgment against Plaintiffs and for Chase. Dkt. # 33. This Court also instructed Plaintiffs to show cause within two weeks of the date of the Order why this matter should not be dismissed

as to the other defendants, Quality Loan Service Corp. of Washington (“Quality”) and Triangle Property of Washington (“Triangle”), for the same res judicata reasons outlined in this Court’s Order on May 11, 2018 (Dkt. # 26). *Id.* The Court explicitly warned Plaintiff that if they failed to make such a showing as to Quality and Triangle, the Court would “dismiss Plaintiffs’ claims and enter judgment against Plaintiffs as to all Defendants.” *Id.* at 3.

Over three weeks have passed, and Plaintiffs have made three filings; an “Answer to Chase Claims” (Dkt. # 35), an “Amended Answer to Chase Claims and Judge’s Proposed Order re Answer to Chase Claims” (Dkt. # 36), and an untimely “2nd Amended Answer” (Dkt. # 37). The two timely filings are nearly identical. Both filings essentially reargue Plaintiffs’ case against Chase (who has already been dismissed), mad do not purport to address this Court’s August 14, 2018 Order or res judicata in any form. Dkt. ## 35, 36. These filings also do not address the claims against Quality or Triangle. The only reference to Quality is in an e-mail attached as an exhibit, where Quality is apparently named in the title of a 2014 article. Dkt. # 35 at 15; Dkt. # 36 at 18. The only reference to Triangle is an unsupported allegation that Triangle towed and sold the Bartons’ truck and motor cycle. Dkt. # 35 at 5-6; Dkt. # 36 at 8-9. Neither filing addresses the fact that both Quality and Triangle were previously defendants in one or more of the Bartons’ previously-dismissed lawsuits on these claims. *See, e.g., Barton v. JPMorgan Chase Bank, NA.*, No. CI3-0808RSL, (W.D. Wash. 2013)

(Quality and Chase included as defendants); *Barton v. JPMorgan Chase Bank*, N.A., No. C12-1772JCC (W.D. Wash. 2012) (same); *Barton v. JP Morgan Chase Bank*, N.A., 196 Wash. App. 1007 (2016) (unpublished) (Chase and Triangle included as defendants). Neither filing addresses the fact that Plaintiff's claims were, or could have been, brought against Quality and Triangle in previous lawsuits. Dkt. # 26. Neither filing presents any reason why this case should continue against Quality or Triangle. The third filing, the "2nd Amended Answer," is untimely per the Court's Order to Show Cause, and although it vaguely alleges that Triangle has with issues clouded titles, it fails to address why Plaintiff's claims as to Triangle should not be dismissed due to res judicata. Dkt. # 37.

The Court thus concludes that Plaintiff has failed to show cause why this case should not be dismissed as to Quality and Triangle based on the res judicata grounds identified in its May 11, 2018 Order (Dkt. # 26). Where "the plaintiffs cannot possibly win relief," the trial court may *sua sponte* dismiss claims for failure to state a claim. *Sparling v. Hoffman Const. Co.*, 864 F.2d 635, 638 (9th Cir. 1988); *Edwards v. Caliber Home Loans*, No. C16-1466-JCC, 2017 WL 2713689, at *3 (W.D. Wash. June 7, 2017), *aff'd sub nom. Edwards v. Caliber Home Loans, Inc.*, 708 Fed. Appx. 438 (9th Cir. 2018) (dismissing claims against the defendant trustee in a wrongful foreclosure action despite defendant trustee's failure to join in the other defendants' motion to dismiss). Based on the record and Plaintiff's failure to show cause, the Court concludes that

Plaintiffs claims against all Defendants are barred for the reasons outlined in its May 11, 2018 Order. Dkt. # 26.

Accordingly, Plaintiffs' claims as to Defendants Quality and Triangle are **DISMISSED WITH PREJUDICE**. The Clerk of Court shall enter final judgment against Plaintiff's and for Defendants Quality and Triangle.

DATED this 6th day of September, 2018

/s/ Richard A. Jones

The Honorable Richard A. Jones
United States District Judge

THE SUPREME COURT OF WASHINGTON

BYRON BARTON, et ano.,

No. 93777-0

Petitioners,

ORDER

v.

Court of Appeals

JP MORGAN CHASE BANK,
et al.,

No. 73336-2-I

Respondents.

Department II of the Court, composed of Chief Justice Fairhurst and Justices Madsen, Stephens, Gonzalez and Yu, considered at its February 7, 2017, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petition for Review is denied. Petitioner's motion to file a supplement to the Petition for Review and "Supplemental Motion 9.5 Objection" are also denied. Respondent JP Morgan Chase Bank's request for attorney fees is denied.

DATED at Olympia, Washington, this 8th day of February, 2017.

For the Court

/s/ Fairhurst, C.J.

CHIEF JUSTICE

SULLIVAN & CROMWELL LLP

TELEPHONE: 1-310-712-6600

FACSIMILE: 1-310-712-8800

www.sull.crom.com

**1888 Century Park East
Los Angeles, California 90067-1725
[Illegible]**

September 12, 2014

Via FedEx

Federal Deposit Insurance Corporation,
Receiver of Washington Mutual Bank,
Henderson, Nevada
1601 Bryan Street, Suite 1701,
Dallas Texas 75201.

Attention: Reginal Counsel
(Litigation Branch) &
Deputy Director (DRR –
Filed Operations Branch)

Re: Indemnification Obligations

Dear Sirs.

We refer to the Purchase and Assumption Agreement Whole Bank, dated as of September 25, 2008 (the "Agreement") by and among the Federal Deposit Insurance Corporation in its corporate capacity ("FDIC Corporate") and as receiver ("FDIC Receiver" and, together with FDIC Corporate, "FDIC") and JPMorgan Chase Bank, N.A. (together with its subsidiaries and affiliates, "JPMC") relating to the resolution of Washington Mutual Bank Henderson, Nevada ("WMB"). This letter supplements our prior indemnification

notices and provides you with written notice of additional matters for which JPMC is entitled to indemnification under Section 12.1 of the Agreement.

The additional matters giving rise to JPMC's indemnity rights relate to costs incurred in connection with mortgages held by WMB prior to September 25, 2008. These costs have resulted from aspect of—and circumstances related to—WMB mortgages that were not reflected on the books and records of WMB as of September 25, 2008, and include:

- (a) Costs incurred by JPMC associated with individual assignments of WMB mortgages. Where JPMC has initiated foreclosures on properties associated with mortgages that were held by WMB prior to its Receivership, JPMC has performed individual assignments of the associated mortgages/deed of trust and allonges to comply with a recent appellate-level court decision in Michigan so as to avoid potential additional expense and/or liability. In so doing, JPMC has incurred additional recording and legal fees, Limited Power of Attorney costs, as well as quantifiable costs associated with increased staffing to address these issues.
- (b) Costs incurred by JPMC associated with preparing and submitting, and/or updating information on, lien release documents related to WMB-serviced loans that were paid in full prior to September 25, 2008.
- (c) Costs incurred by JPMC to expunge records associated with WMB mortgages as a result of

errors in mortgage documentation occurring prior to September 25, 2008, including erroneously recorded satisfactions of mortgages and associated legal fees and disbursements.

- (d) Cost incurred by JPMC to correct various defects in the chains of title for WMB mortgages occurring prior to September 25 2008, including recording and legal services fees.

At the time of WMB'S closure, the above liabilities were not reflected on its books and records. (If you disagree, please identify where on WMB's books and records such a liability was reflected.) As you know, the liabilities assured by JPMC were limited to those on WMB's "Books and Records," with a "Book of Value," when WMB was closed. JPMC did not assume any WMB liabilities that did not have a book value on WMB's books and records at the time WMB was placed into receivership, nor did it assume, for those liabilities on WMB's books and records, liability for any amounts in excess of such book value. Thus, any liability for conduct that precedes WMB's close remains with FDIC.

JPMC is advising you that the liability it may incur in connection with these matters, including the costs and expenses it incurs in defending against any action that may arise in relation to these matters, as well as the amount of any settlement or adverse judgment, are subject to indemnification by the FDIC pursuant to Section 12.1 of the Agreement.

As you are aware from previous correspondence notifying you of the FDIC's indemnification obligations

in other matters, the matters identified in this letter are not intended to be exhaustive or to constitute a settlement that no other facts have or may come to our attention that could result in claims for which indemnification is

* * *

Jean Barton
6548 41st SW
Seattle, Washington 98136
Date 05/02/2014

**SWORN OATH AND VERIFICATION
OF BARTON'S AUDIT**

I, Jean Marie Barton, Oath, with unlimited liability, proceeding in good faith being of sound mind states that the facts contained herein are true, complete correct, and not misleading to the best of private my firsthand knowledge and belief under penalty of perjury.

- (1) The nine page audit of Barton's Washington Mutual loan is a summary of 482 page audit for the court to review,
- (2) The Washington Mutual loan proves Chase Bank has no standing to foreclose on Washington Mutual loans.
- (3) The banker that perform
- (4) The Washington Mutual loan audit has twenty five years year of banking services and knows banking procedure.

SUBSCRIBED AND SWORN /s/ Jean Marie Barton
Jean Marie Barton

IN WITNESS WHEREOF, I, a notary Public of the State of Washington. Duly commissioned and sworn. Have hereunto set my hand and affixed my official seal in King County at Seattle on this date of May 02, 2014.

13a

/s/ Barry L. Chastain
Notary Barry L. Chastain Seal

BARRY L. CHASTAIN
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JULY 9, 2015

My commission expires 7/9/2015

[LOGO]

PALADIN ASSOCIATES

SUMMARY AND CONCLUSION

In preparation for this narrative summary, the auditor has thoroughly reviewed each document submitted for review. Above is the verified timeline that applies to this Loan. In addition, information from other sources has been researched and included as deemed appropriate. Although not expressly stated in the Client Intake Sheet, it is assumed that the purpose of the Borrowers engagement of this review is to determine whether the foreclosing party has legal standing to sell the property; and if not, whether information ascertained in conjunction with this audit might assist in either 1) further delay and/or 2) prevent outright the foreclosure of the property.

It should be noted that the primary document for review in an audit is the Promissory Note. We have been provided with a copy of the Note, which contains the borrower's signature, however it is stamped as a true and correct copy by the closing attorney, indicating that the copy was made in 2007 at the time of signing. We do not see that the original Note has been provided to the borrower for inspection, as allowed for under the Uniform Commercial Code. We do not see any assertion by the lender that it has lost the original note (a Lost Note Affidavit).

We have not been provided with an Assignment of Deed of Trust, transferring beneficial interest of the Deed to any other entity. We do not see that this loan

has been securitized in a Mortgage-Backed transaction.

We have not been provided with a Substitution of Trustee appointing Quality Loan Service Corp. of Washington to act as a foreclosure trustee on behalf of the Deed of Trust.

We have recently reviewed the sworn testimony of Lawrence Nardi, an officer of JPMorgan Chase Bank, N.A. and the operations Unit Manager that handles contested and litigated matters with inside and outside counsel. The deposition was taken on May 9, 2012 in the matter of JPMorgan Chase Bank, N.A. vs Sherone Waisome, et al In The Circuit Court of the Fifth Judicial Circuit, in and for Lake County, Florida. The deposition has been included as an exhibit, and it appears that a schedule (list) of the loans that JP Morgan Chase Bank, N.A. acquired from Washington Mutual does not exist. Loans may have be sold or paid off under Washington Mutual, but apparently JPMorgan Chase is trying to do "the best they can with what they have" from WAMU.

We do not see that JPMorgan has shown standing to foreclose in this matter. We do not see that JPMorgan Chase has been able to produce the original note. We do not see that JPMorgan Chase has presented proof that this is a loan that is purchased in the acquisition of WAMU assets.

If it is determined that the Note and Deed of Trust are held by different entities, the loan would be considered

bifurcated*, and the security instrument would no longer have the validity to foreclose on the property.

***Bifurcated**

In *Carpenter v. Longan* 16 Walls 271, 88 U.S. 271, 21 Led. 315 (1872), the United States Supreme Court stated, "The note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while assignment of the latter alone is a [illegible]." The obligation can exist with or without security but a security interest cannot without the underlying existing obligation so if all you get is the mortgage and not the note, that's pretty much worthless, or you have a Note without collateral.

September 19, 2011 dated REVOCATION OF POWER OF ATTORNEY was executed by Jean Marie Barton, revoking the power of attorney clause in the Deed of Trust (security instrument) recorded in the King County of Records # 20070814001629 and # 2007081 4001629, empowering First American, a California corporation to act as "Trustee", and Washington Mutual bank, ITS SUCCESSOR OR ASSIGNS to act in my behalf as my true and lawful attorney. The document was recorded on 9/19/2011 as document # 20110919001034, King County, WA.

September 19, 2011 dated NOTICE OF INTENT TO PRESERVE AN INTEREST, executed by Jean Marie Barton. The document states it is intended to preserve a security interest in real property from extinguishment pursuant to section 880.320 et seq of the Civil

Code of the State of California. The Notice states that Chase was requested to answer a Proof of Claim, and failed to comply within 30 days. The document was recorded on 9/19/2011 as Document No. 20110919001035, King County. WA.

December 29 2011 dated AFFIDAVIT & PUBLIC NOTICE REFERENCE FRAUDULENT ACTIVITY TO THIS PROPERTY, executed by Jean Marie Barton.

June 30, 2010 dated NOTICE OF 'TRUSTEES SALE executed by Deborah Bristle, Vice President of California Reconveyance Company, as Trustee Setting an auction sale (Trustees Sale) for July 27, 2010 at 10:00 AM., at the South entrance to the County Courthouse, 220 West Broadway, San Diego, CA. The Document was Recorded July 02. 2010 as Document No.2010-0335053, Official Records, San Diego County Recorder's Office,

September 29, 2010 dated QUIT CLAIM DEED, executed by Sean Park and Michelle Park, as Trustees of the Sean and Michelle Park Family Trust dated July 2, 2003, granting all interest in the above reference property to Sean M. Park. The document recorded on September 29, 2010 as document number 2010-0520448, Official Records, San Diego County Recorder.

June 08, 2011 dated NOTICE OF TRUSTEE'S SALE executed by Casey Kealoha, Assistant Secretary of California Reconveyance Company, as Trustee Setting an auction sale (Trustee's Sale) for July 01, 2011 at 10:00 AM, at the South entrance to the County Courthouse, 220 West Broadway, San Diego, CA. The Document was

Recorded June 10, 2011 as Document No.2011-0295893, Official Records, San Diego Coney Recorder's Office.

April 27, 2012 dated NOTICE OF TRUSTEES SALE executed by Maria Mayorga, Assistant Secretary of California Reconveyance Company, as Trustee Setting an auction sale (Trustee's Sale) for May 18, 2012 at 10:30 AM, at the entrance to the East County Regional Center by statue, 250 E. Main Street, Cajon, CA 92020. The Document was Recorded April 27, 2012 as Document No. 2012-0246261. Official Records, San Diego County Recorder's Office.

May 7, 2013, dated NOTICE OF DISCONTINUANCE OF TRUSTEE'S SALE was executed by Paul Hitchings, Assistant Secretary of Quality Loan Service Corporation of Washington, discontinuing the Trustee's Sale set by the Notice of Trustees Sate recorded on 4/5/2013, under Auditors number 0130405001344. The document was recorded electronically as 20130509001797 on 5/09/2013. King County Washington.

Prepared by:) 20111229001774
Jean Marie Barton) CASH/BARTON N 78.99
After recording) PAGE 001 OF 615
return to:) 12/28/2011 12:23
) KING COUNTY, WA
Jean Marie Barton)
6548 41st Ave SW)
Seattle, WA 98136) ORIGINAL
206 935 9384) —Above This Line Reserved
) For Official Use Only—

Affidavit & Public Notice Reference
Fraudulent Activity Related To This Property

I, Jean Marie Barton, of 6548 41st Ave SW, city of Seattle, county of King, state of Washington, the undersign Affidavit having been duly sworn, depose and states truthfully, for the record regarding the below property, the following information.

The legal description of this property to the best of my knowledge based on public records is:

Abbreviated Legal; Lt 3-4 BLK.3 GATEWOOD-GARDENS V.25 P. 15

Tax Parcel Number. 271910010

Also known as 6548 41st Ave SW Seattle, WA 98136

Regarding the following recording information on King County Public Records

Mortgage Allegedly Signed:

On August 06, 2007 and record on August 14, 2007 DEED OF TRUST loan # 3014060077-068 (security Instrument) recorded in the King County of Records

20070814001628 and loan # 0772783908 recorded in the King County 2007081001629 between BYRON L. BARTON AND JEAN BARTON, HUSBAND AND WIFE dated August 06, 2007 given to, and empowering First American, a California corporation, located at 1567 Meridian Ave "800 Seattle, WA 98121 to act as "Trustee" is hereby replace for "default of proof of claim and fraudulent signatures of Jean M Barton, upon the recorded Mortgage, Deed of Trust or Security instrument are forgery(s) by unknown Washington Mutual agent(s), J.P. Morgan; Chase Bank the unrecorded Beneficiary and Successors or assigns allegedly claims the mortgage has not been fully paid off, satisfied, not discharged, but instead continues to exist in attempts to collected on a VOID or NULLY contract even though Chase knowingly knew that a Breach of Contract and/or fraudulent signatures are present to the recorded Mortgage or Deed of Trust in violation of law.

1. The Forensic Document Examiner Report of Brain Forrest, is undisputed by WAMU, J.P. Morgan and Chase Bank. WAMU, J.P. Morgan and Chase Bank "Failure Proof of Claim" is undisputed and have exhausted all administrative remedy. That the Respondent(s) removed their Trustee of record by written notice dated September 30, 2011 ref 0290-01 IF 1A 273-000000000000.
2. "That, according to the Proof of Claim and Forensic Document Examiner Report, the Respondents are now in DEFAULT and WITHOUT RECOURSE and no evidence has been presented to the contrary. (See Exhibit

C Forensic Document Examiner Report of
Brain Forrest).

3. If the Bank or the Bank's continue to attempt to collected on a NULLY and VOID contract or attempt to foreclose on this property after this declaration, then they do so knowing they have no standing or right of enforcement. Therefore, doing so will make them guilty of extortion, theft and fraud. All Federal felonies punishable with prison time.
4. Should the Bank's take any form action of Public recording such as Affidavit of Correction, Affidavit of Erroneous Recording, Affidavit of Erroneous Release and/or legal action upon the NULLY and. VIOD contract and/or proceed with foreclosure action, they do so at their full commercial liability and shall be named a co-defendant against them in a wrongful civil action 3 x damages.

Jean M Barton is knowledgeable makes this affidavit for the purpose of giving notice to correct the above-described instrument, mortgage and, or Deed of Trust by Striking the Bank's mortgage contract 3014060077; 0772783908 in entirety for payment(s) is NULL and VIOD for Breach of Contract and fraudulent actions of the Banker's that impaired the mortgage.

Dated; December 29, 2011.

/s/ Jean Marie Barton

Principal Jean Marie Barton
State of Washington
County of King

22a

NOTARY

IN WITNESS WHEREOF, I, a notary Public of the
State of Washington duly commissioned and sworn,
have hereunto set my hand and affixed my official seal
in the King County at Seattle on this date of December
u, 2011

/s/ Barry L. Chastain
Barry L. Chastain

BARRY L. CHASTAIN
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JULY 9, 2015

Notary

My commission expires 7/9/2015

23a

Return to:	20070814001628
WASHINGTON MUTUAL BANK PA	FIRST AMERICAN BA \$1.00
2219 ENTERPRISE DR	PAGE 001 OF 821
FLORENCE, SC 29501	05/14/2007 12:42
DOD OPS M/S FSCE 440	KING COUNTY, WA

Assessor's Parcel or Account Number 2719100105

Abbreviated Legal Description: n/a

Lt 3-4 Blk 3 Gatewood Gardens V.25 P.15

[Include lot. [illegible] and plat or section, Township and range] Full legal description located on page 3

Trustee FIRST AMERICAN TITLE CO.

21/261

——(Space Above This Line For Recording Data)——

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 19, 20, and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated AUGUST 05, 2007 together with all Riders to this document.

(B) "Borrower" is BYRON L. BARTON AND, JEAN BARTON, HUSBAND AND WIFE

Borrower is the trustor under this Security Instrument.

24a

(C) "Lender" is WASHINGTON MUTUAL BANK, PA
WASHINGTON-Single Family-[Illegible] UNIFORM
INSTRUMENT Form 3863 IRI

-6(WA) (0612

page 1 of 15 Initials BLB

VMP MORTGAGE FORMS – (UCC) [illegible]

JMB

WaMuClosingBook.txt

FDIC as Receiver of
Washington Manual Bank
1601 Bryan Street
Dallas, TX 75201
Attention: George Fritz

Under federal law, with certain limited exceptions, failure to file such claims by the Bar Date will result in disallowance by the Receiver, the disallowance will be final, and further rights or remedies with regard to the claims will be barred. 12 U.S.C. Section 1821(d)(5)(C), (d)(6).

TO THE DEPOSITORS OF THE INSTITUTION

The Federal Deposit Insurance Corporation, in its corporate capacity, which insures your deposits (the "FDIC"), arranged for the transfer of the deposit(s) at the Failed Institution to another insured depository institution, JPMORGAN CHASE BANK NATIONAL ASSOCIATION, Columbus, OH, 43240 ("the New Institution"). This arrangement should minimize the inconvenience that closing of the Failed Institution causes you. You may leave your deposits in the New Institution, but you must take action to claim ownership of your deposits.

Federal law 12 U.S.C. Section 1822(e), requires you to claim ownership of ("claim") your deposits at the New Institution within eighteen (18) months from the Closing Date. If you do not claim your deposits at the New Institution by March 25, 2010, the funds in your account(s) will be transferred back to the FDIC, and you

will no longer have access to your deposit(s) at the New Institution. However, as described in more detail below, you may still be able to obtain these funds from your state government or the Receiver.

You may claim your deposits at the New Institution by taking any of the following actions within 18 months from the Closing Date. If you have more than one account, your action in claiming your deposit in one account will automatically claim your deposit in all of your accounts.

1. Making a deposit to or withdrawal from your account(s). This includes writing a check on any account, or having an automated direct deposit credited to or an automated withdrawal debited from any account;
 2. Executing a new signature card on your account(s), enter into a new deposit agreement with the New Institution, changing the ownership on your account(s), or renegotiating the terms of your certificate of deposit account;
 3. Providing the New Institution with a completed change of address form; or RLS7211
-

10/10/10

10/10/10

10/10/10

COPY

By clicking below, you agree to the terms of our Agreement and you acknowledge that you have received a copy of this Agreement.

Original

Case: 18-35708, 12/19/2019, ID: 11538641, DocId: 35-1, Page 45 of 62

28a

Chase (OH4-7382)
3415 Viston Drive
Columbus, OH 4321904009

CHASE

ORIGINAL

September 30, 2011

[Illegible]
Jean Barton
6548 41st Ave SW
Seattle, WA 98136-1814

Re: Account Number: *****077
Jean Barton

Dear Jean Barton:

We are writing in response to the inquiry Chase received about the Power of Attorney for this account. We have updated our records to show First American no longer has power of Attorney for this account. We appreciate your business. If you have questions, please call us at the telephone number below.

Sincerely,
Chase
(800) 848-9136
(800) 582-0541 TDD / Text Telephone
www.chase.com

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DAEWOO ELECTRONICS
AMERICA INC., a Florida
corporation,
Plaintiff/Appellant,

v.

OPTA CORPORATION, a
Delaware corporation
registered to do business in
California; T.C.L. INDUSTRIES
HOLDINGS (H.K.) LIMITED, a
Hong Kong corporation; TCL
MULTIMEDIA TECHNOLOGY
HOLDING LIMITED, a Cayman
Islands Company; TCL
CORPORATION, a Shenzhen,
China, corporation,
Defendants-Appellees.

No. 14-17498

D.C. No.
3:13-cv-01247-VC
OPINION

Appeal from the United States District Court
for the Northern District of California
Vince G. Chhabria, District Judge, Presiding
Argued and Submitted December 16, 2016
San Francisco, California
Filed November 27, 2017

* * *

Before: Jay S. Bybee and N. Randy Smith, Circuit
Judges, and Leslie E. Kobayashi,* District Judge.

Opinion by Judge N.B.. Smith;
Dissent by Judge Bybee

SUMMARY**

Claim Preclusion

The panel reversed the district court's dismissal of almost all of Daewoo Electronics America Inc.'s claims as barred by a prior judgment of the United States District Court for the District of New Jersey; and remanded for further proceedings.

Daewoo brought this diversity action to recover unpaid debt from four entities affiliated with GoVideo for GoVideo's purchase of DVD players from Daewoo. Daewoo previously filed suit in New Jersey federal court seeking to enforce a guaranty agreement, and the court ruled against Daewoo.

The panel held that the summary judgment ruling of the federal district court in New Jersey on Daewoo's prior breach of contract claim (based on the guaranty agreement) against Opta Corporation and TCL

* The Honorable Leslie E. Kobayashi, United States District Judge for the District of Hawaii, sitting by designation

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

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Industries Holdings Limited did not preclude Daewoo
from bringing the present alter ego and

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