

Case No. 20- _____

SUPREME COURT OF UNITED STATES

Bishop Ruben DeWayne,

Petitioner / Plaintiff,

vs.

J.P. MORGAN MORTGAGE ACQUISITION CORP., et al.,

Respondents / Defendants.

This Petition for Writ of Certiorari in Combo
From U.S. Court of Appeals for the Fourth Circuit Docket No. 20-1889
Appealed from the U.S. District Court, District of South Carolina (3:19-cv-03376)

Appendix
FOR WRIT OF CERTIORARI

*Bishop Ruben DeWayne, Pro Se Petitioner
5105 N. Main Street, Bld. A.
Columbia, South Carolina 29203
(803) 200-5105
20 years victim of Judicial Kleptocracy*

*NELSON MULLINS, Counsel for Respondents
P.O. Box 11070
Columbia, SC 29211-1070
(803) 799-2000*

Pursuant Rule 33.2

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FOR WRIT OF CERTIORARI

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By: 

Bishop Ruben DeWayne, pro se Petitioner
5105 N. Main Street, Bld. A.
Columbia, SC 29203
(803) 200-5105

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LEITTA BROOKS,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

Civil Action No.
12-11634-FDS

MEMORANDUM AND ORDER ON MOTION TO DISMISS

SAYLOR, J.

This action arises from a dispute over the terms of a mortgage loan. Plaintiff Leitta Brooks contends that defendant breached the mortgage contract by disclosing a false finance charge and annual percentage rate. Plaintiff also alleges violations of the federal Truth in Lending Act ("TILA") and Real Estate Settlement Procedures Act ("RESPA").

Defendant has moved to dismiss the complaint for failure to state a claim upon which relief can be granted. For the reasons set forth below, defendant's motion will be granted.

I. Background

A. Factual Background

The facts of this case are not clearly set forth in the complaint, and are described here as the Court understands them from the pleadings.

On May 11, 2007, Leitta Brooks obtained a loan in the amount of \$500,000 from the First National Bank of Arizona in order to finance the purchase of a property at 53 Charlotte Street, Dorchester, Massachusetts. To secure the loan, Ms. Brooks granted the bank a note in the same

amount. Both the note and the mortgage were later assigned to JPMorgan Mortgage Acquisition Corporation. Defendant JPMorgan Chase Bank, N.A. (“Chase”), is the servicer of the loan.

B. Procedural Background

On July 30, 2012, Brooks filed suit against Chase in Suffolk Superior Court. The complaint alleged claims for breach of contract and violations of TILA and RESPA. Chase removed the action to this Court on September 5, 2012. On October 17, 2012, the parties jointly requested, and were granted, a stay of litigation while Chase evaluated Ms. Brooks’s file for a potential loan modification. Chase subsequently offered her a modification; when she rejected that modification offer, Chase offered her an opportunity to participate in a Trial Period Plan at a lower interest rate. In late April of 2013, she rejected that offer as well. The stay in the present litigation was then lifted, and Chase filed a motion to dismiss on April 29, 2013.

II. Standard of Review

On a motion to dismiss pursuant to rule 12(b)(6), the Court “must assume the truth of all well-plead[ed] facts and give plaintiff the benefit of all reasonable inferences therefrom.” *Ruiz v. Bally Total Fitness Holding Corp.*, 496 F.3d 1, 5 (1st Cir. 2007) (citing *Rogan v. Menino*, 175 F.3d 75, 77 (1st Cir.1999)). To survive a motion to dismiss, the plaintiff must state a claim that is plausible on its face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). That is, “[f]actual allegations must be enough to raise a right to relief above the speculative level, . . . on the assumption that all the allegations in the complaint are true (even if doubtful in fact).” *Id.* at 555 (citations omitted).

When evaluating a motion to dismiss, courts may consider any documents explicitly referred to or implicitly relied on by the complaint. *See* Fed. R. Civ. P. 10(c); *Trans-Spec Truck*

Serv., Inc. v. Caterpillar Inc., 524 F.3d 315, 321 (1st Cir. 2008) (“Exhibits attached to the complaint are properly considered part of the pleading . . .”). Courts may also consider any documents to which the complaint’s factual allegations are expressly linked, as such documents effectively merge into the pleadings. *See Beddall v. State Street Bank & Trust Co.*, 137 F.3d 12, 17 (1st Cir. 1998).

III. Analysis

A. TILA and RESPA

Defendant has moved to dismiss plaintiff’s claims under TILA, 15 U.S.C. § 1601 *et seq.*, on the ground that they are barred by the statute of limitations.

Although styled as a case for “breach of contract,” the complaint alleges a number of violations of TILA. Specifically, plaintiff contends that her loan

- understated the actual finance charge in violation of 12 C.F.R. § 1026.18(d)(1);
- and
- included an inaccurate annual percentage rate in violation of 12 C.F.R. § 1026.22(a)(2), (4).¹

The complaint also alleges that the loan failed the “Good Faith Estimate disclosure date test.”² Under RESPA, a lender must provide a borrower with “a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur”

¹ 12 C.F.R. § 1026 requires that a creditor disclose certain information at the time a loan is made. In particular, § 1026(d)(1) requires that “[i]n a transaction secured by real property or a dwelling, the disclosed finance charge and other disclosures affected by the disclosed finance charge (including the amount financed and annual percentage rate) shall be treated as accurate if the amount disclosed as the finance charge: (i) is understated by no more than \$100; or (ii) is greater than the amount required to be disclosed.”

² The complaint alleges that the loan “failed the initial TIL disclosure date test.” While the basis of that allegation is not entirely clear, it appears that plaintiff intends to allege a violation of 12 CFR § 1026.19(a)(1)(i), which requires that the disclosures required under 12 CFR § 1026.18 be made “not later than the third business day after the creditor receives the consumer’s written application.”

12 U.S.C. § 2604(c). By regulation, the lender must provide such an estimate “not later than 3 business days after a lender receives an application, or information sufficient to complete an application” 24 C.F.R. § 3500.7(a)(1).

In her opposition to defendant’s motion to dismiss, plaintiff appears to indicate that she did not intend to bring any claim under TILA or RESPA. She states that “[d]efendant’s counsel attempts to muddy the waters claiming [p]laintiff’s claim is based upon TILA, RESPA and the GFE which is both false and erroneous. For the aforementioned federal provisions and standards are merely the ‘icing’ upon the matter brought for breach of contract.” Thus, it does not appear that plaintiff intends to base her action on the alleged violations of federal law.

In any event, to the extent that the complaint does seek to set forth claims under TILA, those claims necessarily fail. As set forth in 15 U.S.C. § 1640(e), any action under TILA must be brought within “one year from the date of the occurrence of the violation.” Here, the only TILA violations that plaintiff has arguably alleged occurred at the time the loan documents were first signed—on May 1, 2007. Thus, any action resulting from those violations should have been brought by May 1, 2008. Accordingly, to the extent the complaint alleges any TILA claims, they are untimely.

Similarly, to the extent that the complaint seeks relief for a violation of RESPA, such a claim must also be dismissed, as there is no private right of action for a violation of 12 U.S.C. §2604 or any of the regulations promulgated thereunder. *See, e.g., Collins v. FMHA-USDA*, 105 F.3d 1366, 1368 (11th Cir. 1997).

B. Breach of Contract

The central allegation of the complaint is that Chase has breached its contract with

plaintiff. The complaint alleges “several breaches in the agreement/contract,” (Compl. at 1), and attaches the note and mortgage documents as evidence of that claim. However, the complaint does not cite to any particular terms of the agreement that plaintiff alleges defendant has breached. Rather, all of the alleged breaches set forth in the complaint are based on requirements set forth in TILA and RESPA.

While this Court will liberally construe the pleadings of a *pro se* party, it cannot create a claim where none has been properly pleaded. To assert a breach of contract claim, a *pro se* plaintiff must, at minimum, point to the specific terms of a contract between herself and defendant that she alleges defendant has breached. Plaintiff has not done so here. Plaintiff’s breach of contract claim appears to be based on the allegations that Chase disclosed an inaccurate finance charge and annual percentage rate in the mortgage or note. Specifically, plaintiff alleges that (1) the disclosed finance charge was \$935,714.02, while the actual charge was \$941,842.79; and (2) the disclosed annual percentage rate was 9.059%, while the actual rate was 9.201%. (Compl. at 2).

The complaint does not cite to any particular provision of the mortgage or note that include the allegedly false finance charge and annual percentage rate. Nor has the Court, upon its own review of the documents attached to the complaint, been able to locate any terms of the agreement that refer to either number.³ Thus, the complaint has not sufficiently alleged that the claimed finance charge and annual percentage rate were terms of the contract at issue.

Accordingly, the complaint does not state a claim for breach of contract, and defendant’s

³ Section 2 of the note sets out a partially-illegible annual interest rate. However, that rate differs from both the disclosed and actual annual percentage rates set forth in the complaint, and thus does not appear to be the basis for plaintiff’s breach of contract claim.

motion to dismiss will be granted.

III. Conclusion

For the reasons set forth above, defendant's motion to dismiss is GRANTED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: July 17, 2013

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LEITTA BROOKS,
Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,
Defendant.

CIVIL ACTION
NO. 1:12-11634-FDS

ORDER OF DISMISSAL

Saylor, D. J.

In accordance with the Court's Memorandum and Order issued on July 17, 2013,
granting the defendant's motion to dismiss, it is hereby ORDERED that the above-entitled
action be dismissed.

So Ordered.

F. DENNIS SAYLOR, IV
UNITED STATES DISTRICT JUDGE

July 17, 2013
Date

By the Court:
/s/ Pietro Cicolini
Deputy Clerk

When Recorded Return To:
JPMorgan Chase Bank, NA
C/O Nationwide Title Clearing, Inc.
2100 Alt. 19 North
Palm Harbor, FL 34683



2014 00077834
Bk: 53504, Pg: 72, Page: 1 of 1
Recorded: 09/22/2014 02:25 PM
ATTEST: Francis M. Roache, Register
Suffolk County Registry of Deeds

Loan #: 1927372923



ASSIGNMENT OF MORTGAGE

Contact JPMORGAN CHASE BANK, N.A. for this instrument 780 Kansas Lane, Suite A, Monroe, LA 71203, telephone # (866) 756-8747, which is responsible for receiving payments.
FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS, WHOSE ADDRESS IS P.O. BOX 2026, FLINT, MI, 48501-2026, (ASSIGNOR), by these presents does convey, grant, assign, transfer and set over the described Mortgage with all interest secured thereby; all liens, and any rights due or to become due thereon to J.P. MORGAN MORTGAGE ACQUISITION CORP., WHOSE ADDRESS IS 700 KANSAS LANE, MC 8000, MONROE, LA 71203, ITS SUCCESSORS AND ASSIGNS, (ASSIGNEE).

Said Mortgage bearing the date 05/11/2007, made and executed by LEITTA BROOKS, mortgagor(s), to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS, mortgagee, and was recorded in the Office of the Register of Titles and County Recorder for SUFFOLK County, Massachusetts on 05/14/2007, in Book 41790, Page 118 and Instrument # 2007 00054365.

Property is commonly known as: 53 CHARLOTTE STREET, DORCHESTER, MA 02121.

IN WITNESS WHEREOF, the said CORPORATION has caused these present to be executed in its name by its ASST. SECRETARY on 09/18/2014 (MM/DD/YYYY).
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS

By:

LeShonda Anderson
LeShonda Anderson
ASST. SECRETARY

STATE OF LOUISIANA, PARISH OF OUACHITA

On 09/18/2014 (MM/DD/YYYY), before me appeared LeShonda Anderson, to me personally known, who did say that he/she/they is/are the ASST. SECRETARY of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS and that the instrument was signed on behalf of the corporation (or association), by authority from its board of directors, and that he/she/they acknowledged the instrument to be the free act and deed of the corporation (or association).

Eva Reese
Eva Reese
Notary Public - State of LOUISIANA
Commission expires: Upon My Death

EVA REESE
OUACHITA PARISH, LOUISIANA
LIFETIME COMMISSION
NOTARY ID# 17070

☐ No Mortgage Broker was involved in the placing of this loan.
Mortgage Broker's Name:
Address: , ,
License:

☐ No Mortgage Loan Originator was involved in the placing of this loan.
Mortgage Loan Originator's Name:
Address: , ,
License:

Instrument Prepared By: LeShonda Anderson JPMorgan Chase Bank, N.A., 780 Kansas Lane, Suite A, Monroe, LA, 71203

JPCAS 24437457 -- CHASE MIN 100135553000542179 MERS PHONE 1-888-679-6377 T0514091113
[C-1] FRMMA1



D0007366318

8

Allonge to Note

Loan #: 1927372925

Borrower: Leita Brooks

Address: 53 Charlotte Street
Dorchester, MA 02121

Loan Amount: \$500,000.00

Allonge to one certain note dated May 11, 2007 and executed by Leita Brooks;

Pay to the order of _____
assigns without recourse in any event _____ its successor and/or

Without recourse

JPMORGAN CHASE BANK, N.A. SUCCESSOR BY MERGER TO CHASE HOME
FINANCE, LLC S/B/M TO CHASE MANHATTAN MORTGAGE CORPORATION
ATTORNEY IN FACT FOR WELLS FARGO BANK N.A. S/B/M TO WELLS FARGO
BANK OF ARIZONA, N.A. F/K/A FIRST INTERSTATE BANK OF ARIZONA, N.A.
F/K/A FIRST NATIONAL BANK OF ARIZONA


Name of Signor: CONNIE O'ADAMS
Title of Signor: VICE PRESIDENT

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN N. LEWIS and SUSAN A. LEWIS,

Plaintiffs,

v.

BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
WELLS FARGO BANK, N.A.,

Defendants.

Civil Action No.
16-11122-FDS

MEMORANDUM AND ORDER ON DEFENDANTS' MOTION TO DISMISS

SAYLOR, J.

This action arises from a home mortgage foreclosure. Jurisdiction is based on diversity of citizenship. Plaintiffs John N. Lewis and Susan A. Lewis have brought suit against defendants Bank of New York Mellon Trust Company, N.A. ("BNYM"), Mortgage Electronic Registration Systems, Inc. ("MERS"), and Wells Fargo Bank, N.A. ("WFB") for alleged violations of law stemming from proceedings to foreclose on their home.¹ The complaint asserts claims for declaratory and injunctive relief, conversion, and violation of Mass. Gen. Laws ch. 93A. Plaintiffs essentially seek a two-prong declaration that MERS, the mortgagee, did not have authority to assign the mortgage to the purported note holder BNYM, and that BNYM is not the holder of the promissory note that plaintiffs granted to their original lender, Peoples Mortgage Corporation ("PMC").

¹ Plaintiffs are not proceeding *pro se*. Rather, they are represented by John N. Lewis & Associates, the law firm of Mr. Lewis, who is an attorney licensed to practice in Massachusetts.

Defendants have moved to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. For the reasons set forth below, defendants' motion will be denied.

I. Background

Unless otherwise noted, all facts are stated as alleged in the complaint and its accompanying exhibits.

A. Factual Background

In December 2004, plaintiffs purchased a home at 22 Cutler Road, Needham, Massachusetts. (Compl. ¶ 5). To finance their purchase, plaintiffs executed a \$1.2 million promissory note in favor of PMC, their lender. (*Id.* ¶ 6; Compl. Ex. 1).² The note was secured by a mortgage on the property. (Compl. ¶ 6).

The mortgage designates plaintiffs as the borrowers, PMC as the lender, and MERS as the mortgagee. (Compl. Ex. 2 at 1). According to the mortgage, MERS "is a separate corporation that is acting solely as a nominee for lender and lender's successors and assigns." (*Id.*). Plaintiffs agreed to "hereby mortgage, grant and convey to MERS (solely as nominee for lender and lender's successors and assigns) and to the successors and assigns of MERS, with power of sale the [Cutler Road property]." (*Id.* at 2). MERS promptly recorded the mortgage in the Norfolk County Registry of Deeds. (Compl. ¶ 7).

In November 2008, PMC was voluntarily dissolved. (*Id.* ¶ 9).³ In October 2014, plaintiffs stopped paying their mortgage. (*Id.* ¶ 10). According to plaintiffs, they did so "upon a coincidental review of their title which revealed that PMC had been dissolved and that there was

² Plaintiffs filed their copy of the promissory note as an exhibit to the complaint. (Compl. Ex. 1). Defendants have not submitted the actual note, which they contend is held by BNYM.

³ It is unclear whether PMC was still the note holder at that time.

no record of any assignment of the mortgage in the Land Court or Norfolk Registry of Deeds or that the note had been sold, transferred or assigned to a subsequent holder.” (*Id.*). At that time, MERS still owned the legal title to the mortgaged premises in trust for the note holder (the successors and assigns of PMC).

In December 2014, MERS assigned the mortgage to BNYM, who defendants contend was the note holder at the time of default. (*Id.* ¶ 11; Compl. Ex. 4 at 1). The assignment, which was prepared by WFB, was signed by an assistant secretary of MERS, “as nominee for [PMC], its successors and assigns.” (Compl. Ex. 4 at 2). The assignment was recorded in January 2015. (*Id.*). At all times relevant to this action, WFB has been acting as the servicer for plaintiffs’ loan on behalf of BNYM. (*Id.*; Compl. Ex. 6).

In July 2015, BNYM initiated foreclosure proceedings by filing a Servicemembers Civil Relief Act case in the Massachusetts Land Court. (Compl. ¶ 14). In May 2016, WFB recorded an affidavit with the Registry of Deeds pursuant to Mass. Gen. Laws ch. 244, §§ 35B and 35C. (*Id.* ¶ 13). The affidavit identifies both the Cutler Road property and the original mortgage, which was granted to MERS “as nominee for [PMC], its successors and assigns.” (Def. Ex. 1).⁴ The affidavit is signed by a vice president of loan documentation for WFB and states that “the mortgage was assigned to [BNYM], as successor-in-interest to all permitted successors and assigns of JPMorgan Chase Bank, N.A., as Trustee, for certificate holders of Nomura Asset Acceptance Corporation Mortgage Pass-Through Certificates, Series 2005-AR2 on December 23, 2014.” (*Id.*). It further states that BNYM is “the holder of the promissory note secured by the above mortgage.” (*Id.*).

⁴ Plaintiffs did not attach the affidavit as an exhibit to the complaint. Defendants provided the Court with a copy of it as a recorded public record during the motion hearing, and they subsequently filed it as an exhibit. (Dkt. 20).

B. Procedural Background

Plaintiffs filed suit in the Massachusetts Land Court in May 2016, seeking to prevent BNYM from exercising the power of sale and conducting a foreclosure. The complaint asserts claims for (1) declaratory judgment, (2) injunctive relief, (3) conversion, and (4) violation of Mass. Gen. Laws ch. 93A. It alleges that “the assignment from [MERS] to [BNYM] is fraudulent and void,” and that “[BNYM] is not the holder of the . . . promissory note given by [plaintiffs] to [PMC].” (Compl. ¶ 15). It also alleges conversion against WFB for wrongfully collecting \$784,500 in plaintiffs’ monthly mortgage payments from 2008 to 2014. (*Id.* ¶¶ 20-23). Finally, it alleges that MERS, WFB, and BNYM violated Chapter 93A by “conspir[ing] to deceive [plaintiffs] . . . into believing that [BNYM] was the owner of the mortgage for the purpose of foreclosing on the Cutler Road property and exercising the mortgage’s power of sale, knowing that [PMC] did not exist at the time of the assignment and therefore MERS did not have legal title or authority to make the assignment and further filing a false affidavit claiming that BNYM was the holder of the note.” (*Id.* ¶ 25). The complaint seeks declaratory and injunctive relief from the foreclosure proceedings and money damages.

Defendants removed the case to this Court in June 2016. They have moved to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted.

II. Legal Standard

On a motion to dismiss, the Court “must assume the truth of all well-plead[ed] facts and give . . . plaintiff the benefit of all reasonable inferences therefrom.” *Ruiz v. Bally Total Fitness Holding Corp.*, 496 F.3d 1, 5 (1st Cir. 2007) (citing *Rogan v. Menino*, 175 F.3d 75, 77 (1st Cir. 1999)). To survive a motion to dismiss, the complaint must state a claim that is plausible on its

face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). That is, “[f]actual allegations must be enough to raise a right to relief above the speculative level, . . . on the assumption that all the allegations in the complaint are true (even if doubtful in fact).” *Id.* at 555 (citations omitted).

“The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 556). Dismissal is appropriate if the complaint fails to set forth “factual allegations, either direct or inferential, respecting each material element necessary to sustain recovery under some actionable legal theory.” *Gagliardi v. Sullivan*, 513 F.3d 301, 305 (1st Cir. 2008) (quoting *Centro Medico del Turabo, Inc. v. Feliciano de Melecio*, 406 F.3d 1, 6 (1st Cir. 2005)).

III. Analysis

Defendants have moved to dismiss the complaint for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). They contend that the “four-count complaint . . . fails as a matter of law because each claim is predicated on the incorrect legal conclusion that MERS lacks legal authority to assign the mortgage [to BNYM].” (Def. Mem. 1).

Plaintiffs raise two principal arguments in opposition. First, they contend that the mortgage assignment from MERS to BNYM is void because at the time of the assignment in 2014, PMC had already been dissolved, and therefore MERS had no authority as the nominee for “PMC, its successors and assigns” to assign the mortgage. Second, they contend that BNYM is not the holder of the promissory note, and therefore it cannot foreclose on plaintiffs’ home. The Court will address each issue in turn.

A. Assignment of the Mortgage

Before addressing the issues raised by defendants’ motion, some background on

foreclosure law in Massachusetts and the MERS system is warranted.

Under Massachusetts law, if a mortgage grants a statutory “power of sale” and the mortgagor defaults, as is the case here, an authorized party “may sell the property at a public auction and convey the property to the purchaser in fee simple.” *U.S. Bank Nat’l Ass’n v. Ibanez*, 458 Mass. 637, 641 (2011) (citing Mass. Gen. Laws ch. 183, § 21). “Recognizing the substantial power that the statutory scheme affords to a mortgage holder to foreclose without judicial oversight, [courts must] adhere to the familiar rule that one who sells under a power of sale must follow strictly [the statute’s] terms.” *Id.* at 646 (internal quotation marks and alterations omitted). “One of the terms of the power of sale that must be strictly adhered to is the restriction on who is entitled to foreclose.” *Id.* at 647. “[O]nly ‘the mortgagee or his executors, administrators, successors or assigns’ can exercise a statutory power of sale . . . and foreclose without prior judicial authorization.” *Mills v. U.S. Bank, NA*, 753 F.3d 47, 50 (1st Cir. 2014) (citing Mass. Gen. Laws ch. 183, § 21); *accord Ibanez*, 458 Mass. at 646.

A mortgagee has the authority to exercise the power of sale only if it was the assignee of the mortgage at the time of the notice of sale and the subsequent foreclosure sale. *Ibanez*, 458 Mass. at 648. However, for foreclosure sales occurring after June 22, 2012, simply holding the mortgage is necessary, but not sufficient, to exercise a power of sale; a mortgagee must also hold the promissory note or act as the authorized agent of the note holder. *Eaton v. Federal Nat’l Mortg. Ass’n*, 462 Mass. 569, 582-84 (2012); *accord Woods v. Wells Fargo Bank, N.A.*, 733 F.3d 349, 356 (1st Cir. 2013) (“Where the note and mortgage are unified at the time of foreclosure, our inquiry must come to an end.” (citing *Eaton*, 462 Mass. at 582-84)).

The MERS system is intended to lower transaction costs and facilitate the securitization of mortgage notes. The First Circuit has described the “MERS business model” as follows:

MERS functions to streamline the process of securitization and trading of mortgages. A MERS member, upon becoming a lender, names MERS as its nominee and the mortgagee of record and inputs the mortgage into the MERS database. The mortgage note can then be assigned freely among MERS members, with MERS—as mortgagee of record—authorizing and memorializing these trades while circumventing much of the time and paperwork associated with traditional assignments. Only when a note is transferred to a non-MERS member institution does MERS transfer away its interest as mortgagee, thus ending its involvement in the assignment process.

Woods, 733 F.3d at 351 n.1; *see also Culhane v. Aurora Loan Servs. of Neb.*, 708 F.3d 282, 286-88 (1st Cir. 2013). If a borrower defaults and the note holder seeks to foreclose on the collateral, MERS, acting as the nominee for the original lender and its successors and assigns (the subsequent note holders), assigns the mortgage to the note holder to comply with the rule that the mortgage and note must be unified before foreclosure.

The First Circuit has repeatedly rejected challenges to the legality of the MERS system—that is, splitting a mortgage from the note, naming MERS as the nominee and holder of the bare legal interest in the mortgage while the beneficial interest (the note) trades freely among MERS members without official recordings, and then allowing MERS to assign the mortgage to the note holder if foreclosure proceedings are necessary. *See Butler v. Deutsche Bank Trust Co. Am.*, 478 F.3d 28, 32-33 (1st Cir. 2014) (“Suffice it to say, Massachusetts allows a mortgage to be split from its underlying note, and where, as here, MERS possesses a legal interest in that mortgage, such an interest is transferrable.” (citations omitted)); *accord Serra v. Quantum Servicing, Corp.*, 747 F.3d 37, 40 (1st Cir. 2014) (“[W]e [have] ruled unequivocally that MERS may validly possess and assign a legal interest in a mortgage.”); *Woods*, 733 F.3d at 355 (concluding that “MERS, as the mortgagee of record, possessed the ability to assign [the] mortgage”); *Culhane*, 708 F.3d at 293 (“MERS’s role as mortgagee of record and custodian of the bare legal interest as nominee . . . fit[s] comfortably within the structure of Massachusetts mortgage law.”).

Plaintiffs contend that because “[a]t the time that MERS filed the assignment . . . to [BNYM] in December of 2014, PMC did not exist and there were no successors or assigns,” MERS did not have authority on behalf of PMC and its successors and assigns to assign the mortgage to BNYM. Such an argument, however, has been consistently rejected by courts in this district. In essence, “[t]he dissolution of the original lender does not affect MERS’[s] authority to assign a mortgage.” *Boguslav v. BLB Trading, LLC*, 136 F. Supp. 3d 11, 14 (D. Mass. 2015) (citing *Rosa v. MERS*, 821 F. Supp. 2d 423, 431 (D. Mass. 2011)). As one court has explained:

[P]laintiffs also suggest . . . that MERS, as only a nominee, lacked the authority to assign the mortgage loan to defendant. This argument is without merit. MERS was named as mortgagee and nominee for [the original lender] and its successors and assigns. As a result, MERS was authorized to assign plaintiffs’ mortgage to defendant, and “is not required to prove its nominee relationship or that it had authorization to make the assignment from the current holder of the note.” *Rosa*, 821 F. Supp. 2d at 430 (citing *In re Marron*, 455 B.R. 1, 6 (Bankr. D. Mass. 2011)) *That [the original lender] may have ceased all operations nine months before the assignment is of no moment.* “The dissolution of the original lender does not affect MERS’[s] authority to assign a mortgage.” *Rosa*, 821 F. Supp. 2d at 431 (citing *Kiah v. Aurora Loan Servs., LLC*, 2011 WL 841282, at *4 (D. Mass. Mar. 4, 2011) (bankruptcy and dissolution of original lender “would not prevent its successors and assigns . . . from seeking transfer of the mortgage from MERS”)).

Almeida v. U.S. Bank Nat’l Ass’n, 2014 WL 907673, at *3 (D. Mass. Mar. 10, 2014) (emphasis added); accord *Mendoza v. BNY Mellon Trust Co. N.A.*, 126 F. Supp. 3d 166, 167-68 (D. Mass. 2015) (“The mere fact that the originating bank ceased operations prior to assignment does not necessarily mean MERS lacked authority to make the assignment.”).⁵

⁵ See also *Lindsay v. Wells Fargo Bank, N.A.*, 2013 WL 5010977, at *12 (D. Mass. Sept. 11, 2013) (rejecting the argument that “the assignment of the mortgage was void because MERS could not act on the behalf of a dissolved entity” because “[a] bankrupt entity’s dissolution does not invalidate a subsequent assignment of a mortgage from MERS, acting as mortgagee and nominee for the original and subsequently bankrupt lender and lender’s successors and assigns, if the foreclosing entity can establish that it became a proper holder of the mortgage”); *Kiah*, 2011 WL 841282, at *4 (“MERS has the power to act as the agent of any valid note holder under the terms of the mortgage documents. The plain language of the mortgage states that MERS was acting as nominee for [the original lender] and its successors and assigns. [The lender’s] dissolution would not prevent its successors

Accordingly, PMC's dissolution in 2008 did not preclude MERS from assigning the mortgage to BNYM in 2014.

B. Identity of the Note Holder

In addition to challenging the validity of the mortgage assignment from MERS to BNYM, plaintiffs also challenge BNYM's status as the holder of their promissory note. (Compl. ¶ 15). The complaint alleges that the affidavit recorded by WFB pursuant to Mass. Gen. Laws ch. 244, §§ 35B and 35C, stating that BNYM is the holder of the note, is false. (*Id.*).

The theory underlying those allegations is unclear. The complaint alleges that "[n]o documents reflecting MERS[s] transfer of the beneficial interest of [PMC] to [Nomura] or from [Nomura] to [JP Morgan Chase] or from [JP Morgan Chase] to BNYM was ever recorded in the Land Court or the Registry of Deeds, in violation of [Mass. Gen. Laws ch. 185, § 67]." (*Id.*). If the lack of recordings reflecting transfer of the note among MERS members is the sole reason why plaintiffs allege that BNYM is not the note holder, that is insufficient to state a claim. It is well-established that recordings of note transfers between MERS members are not required; the MERS system permits its member banks to securitize, trade, and assign the underlying notes while the mortgage is held by MERS and recorded only once.

Nevertheless, the complaint alleges that BNYM does not hold plaintiffs' promissory note, and the only evidence to the contrary is the affidavit recorded by WFB. At this stage, BNYM has not produced the note for inspection, and MERS has not submitted the note's transaction history. Accordingly, based on the record before the Court, it is at least possible that BNYM is

and assigns, including [the eventual loan servicer] from seeking transfer of the mortgage from MERS. Accordingly, the dissolution of [the lender] would not and could not prevent [the servicer] from obtaining an assignment of the mortgage from MERS, both as a matter of law and according to the arrangement that existed between MERS and [the servicer] as a successor and assign of [the lender]."); *In re Marron*, 455 B.R. at 5 ("MERS remained the mortgagee in its capacity as trustee and as nominee for whomever happened to own the note."). To the extent that plaintiffs contend that PMC dissolved without any successors or assigns, that is simply not a plausible allegation; surely some entity was assigned the note or purchased it from PMC.

not actually the note holder. However, whether plaintiffs' allegation is sufficiently plausible to survive a motion to dismiss is a closer question.

There is at least some question whether dismissal is appropriate where defendants have not produced the actual note as endorsed. *See, e.g., Woods*, 733 F.3d at 356 (affirming grant of motion to dismiss where there was "no real dispute that [defendant was] the current possessor of [plaintiff's] promissory note" because plaintiff did not allege that defendant did not own the note, and because defendant "presented what appears to be the note, endorsed in blank, at oral argument before the district court and as an appendix to its motion to dismiss"); *Olabode v. Caliber Home Loans, Inc.*, 2015 WL 4111439, at *5 (D. Mass. July 8, 2015) (denying motion to dismiss and ordering limited discovery even though plaintiffs' allegations that defendant was not the note holder were "exceedingly thin" because defendant had produced the physical note); *Monges v. Wells Fargo Bank, Nat'l Ass'n*, 2015 WL 1308146, at *9 (D. Mass. Mar. 23, 2015) (granting motion to dismiss declaratory judgment claim on issue of note ownership where defendants produced a copy of the note endorsed in blank and plaintiffs did not present evidence to the contrary).

Under the circumstances, while it appears doubtful that BNYM is not presently the owner of plaintiffs' promissory note, dismissal is at least premature. Accepting the complaint's allegations as true and drawing all reasonable inferences on behalf of plaintiffs, the most prudent course of action at this stage of the case is to deny the motion to dismiss. If defendants produce further evidence that BNYM owns the note—for example, the actual note signed in blank or MERS's internal records of the note's transaction history—and plaintiffs fail to rebut that evidence, there appears to be no theory upon which plaintiffs can prevail, and the case could be swiftly resolved on summary judgment.

IV. Conclusion

For the foregoing reasons, defendants' motion to dismiss is DENIED.

So Ordered.

Dated: August 31, 2016

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

As of June 30, 2008, First National Bank of Arizona was acquired by 1st National Bank of Nevada. First National Bank of Arizona provided business and personal banking services. Its business and personal banking services include online banking, deposit accounts, merchant services, credits and loans, consumer lending, and credit cards. The company also provides investment management, trust services, estate planning and administration, insurance services, brokerage accounts, retirement accounts, financial planning, private banking, and mortgage services. It has branch office locations in Tempe, Scottsdale, Sun City, Surprise, Tucson, and Mohave Valley, Arizona. First National Bank of Arizona... now belong to 1st National Bank of Nevada.

First National Bank of Arizona
Detailed Description
17600 North Perimeter Drive
Scottsdale, AZ 85251

United States Bank
Founded in 1989

As of July 25, 2008, 1st National Bank of Nevada was closed by the Comptroller of the Currency and was added to the list of failed banks. Also, on July 25, 2008, the F.D.I.C. entered into a purchase and assumptive agreement with MUTUAL OF OMAHA BANK.

Phone:

866-871-2159: this telephone # belongs to MUTUAL OF OMAHA BANK

Fax: 602-426-0280



Process Loans, Not Paperwork™

1 record matched your search:

MIN:1001355-5300054217-9

Note Date:05/11/2007

MIN Status: Inactive

Servicer: JP Morgan Chase Bank NA
Monroe, LA

Phone:(800) 848-9136

If you are a borrower on this loan, you can [click here](#) to enter additional information and display the Investor name.

For more information about Mortgage Electronic Registration Systems, Inc. (MERS) please go

to www.mersinc.org

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PURCHASE AND ASSUMPTION AGREEMENT

AMONG

**FEDERAL DEPOSIT INSURANCE CORPORATION,
RECEIVER OF First National Bank of Nevada,
Reno, NV**

FEDERAL DEPOSIT INSURANCE CORPORATION

and

**MUTUAL OF OMAHA BANK
Omaha, NE**

DATED AS OF

25 July 2008

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

B. RUBEN DEWAYNE,

Plaintiff,

v.

FIRST NATIONAL BANK of ARIZONA,
MERS, INC., CITI MORTGAGE, INC. and
JPMORGAN MORTGAGE
ACQUISITION CORP. a/k/a JPMORGAN
CHASE BANK, N.A.,

Defendants.

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Civil Action No. 15-CV-14245-IT

MEMORANDUM AND ORDER

November 10, 2016

TALWANI, D.J.

B. Ruben DeWayne, (“DeWayne” or “Plaintiff”) filed the underlying action against Mortgage Electronic Registration Systems, Inc. (“MERS”) and JPMorgan Chase Bank (“Chase”) (collectively, “Defendants”),¹ seeking a declaratory judgment concerning each party’s rights to the property located at 53 Charlotte Street, Dorchester, Massachusetts. Compl. 1 [#1]. Defendants filed a Motion to Dismiss [#29] which is presently before the court. For the reasons set forth below, the Motion to Dismiss [#29] is GRANTED.

I. Standard

To survive a motion to dismiss, a complaint must include factual allegations that, taken as

¹ Plaintiff has dismissed his claims against First National Bank of Arizona and CitiMortgage, Inc. [#22, #42].

FILED
IN CLERKS OFFICE
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Bishop Ruben DeWayne,

Petitioner,

vs.

CIVIL ACTION NO. 2017-SM-006779,
J.P. MORGAN MORTGAGE
ACQUISITION CORP., and
MERS, INC.,

Respondents.

Case No. 1:18-cv-10931

State Superior Court Case
C.A. No. 18-CV-01141A

Filed under Chapter 93A Case
"Trial by Jury Demanded"

Proper Caption not to be changed

PETITIONER'S FORMAL REQUEST/DEMAND
FOR THE DEFAULT JUDGMENT FOR FAILING TO ANSWER:
(The Superior Court has Exclusive Jurisdiction over MGL c.93A Matters)

CONTINUED DEMAND TO REMAND

To: The Clerk of Court:

LET ALL MEN KNOW BY THESE PRESENT AND THE OFFICIAL RECORD that

All the within Respondents failed to serve their answer upon the Petitioner within
the prescribed allotted time period as set forth in the summons.

1. J.P. MORGAN MORTGATE ACQUISITION CORP. did not answer, nor
was substitution of parties effected or ever plead on record.

2. The Petitioner is entitled to this default judgment against J.P. MORGAN MORTGATE ACQUISITION CORP as a rule and matter of the law.

FURTHER

3. Accordingly, the removal from the State to the Federal District was done by MERS INC and JPMORGAN CHASE BANK NA out of time.
4. Keeping in mind that JPMORGAN CHASE BANK NA is not a party to this action.
5. JPMORGAN CHASE BANK NA was not enjoined.
6. JPMORGAN CHASE BANK NA's appearance was not based upon being substituted as a named party.
7. JPMORGAN CHASE BANK NA did not request nor petition its appearance as a third-party intervenor.
8. Based upon the governing Court Rules, the Clerk should; must at once Strike the appearance, motions and pleadings bearing a party who was not named or properly enjoined to this action. That being said, the Clerk is instructed to place notice on record of this issue that bears judicial notice that JPMORGAN CHASE BANK NA is not a proper party and all filings bearing said entity's name shall be stricken as moot for the lack of standing in this matter.

9. WHEREFORE, the Clerk of Court must declare in its order of default that J.P. MORGAN MORTGATE ACQUISITION CORP is in default.
10. WHEREAS, said order must also state that JPMORGAN CHASE BANK NA shall be stricken from this matter for lack of standing.
11. THEREFORE, according to the federal rules of court, the Clerk of Court must issue its order of default judgment against the Defendant, J.P. MORGAN MORTGATE ACQUISITION CORP and respecting MERS INC. whose removal was a day late and out of time to answer, too is in default based upon the official record as demonstrated thereon.

Respectfully submitted, for I am



Bishop Ruben DeWayne
5105 N. Main Street
Columbia, South Carolina 29203
(803) 200-5105

CERTIFICATE OF SERVICE

I, the Bishop Ruben DeWayne do hereby declare that I have served a true and correct copy of the Petitioner's

PETITIONER'S FORMAL REQUEST FOR THE DEFAULT JUDGMENT:

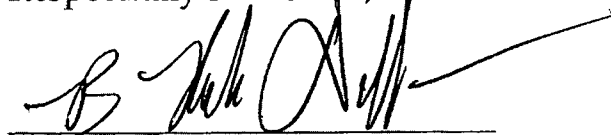
And

CONTINUED DEMAND TO REMAND

upon the Respondents' Counsel by first class mail, pre-paid this 2nd day, of August, 2018 at the addresses below.

MERS INC. and
J.P. MORGAN MORTGAGE ACQUISITION CORP.
c/o PARKER IBRAHIM & BERG LLP
One Financial Center
Boston, MA 02111

Respectfully submitted, for I am



Bishop Ruben DeWayne
5105 N. Main Street
Columbia, South Carolina 29203
(803) 200-5105

Full docket text for document 29:

Judge William G. Young: ELECTRONIC ORDER entered denying [26] MOTION for Default Judgment as to J.P. Morgan (Paine, Matthew)

PACER Service Center			
Transaction Receipt			
02/22/2021 15:07:09			
PACER Login:	ammo7700:6146854:0	Client Code:	
Description:	History/Documents	Search Criteria:	1:18-cv-10931-LTS
Billable Pages:	1	Cost:	0.10

ENTERED ON 9/7/2018

- OPEN THUGGERY -

34

↑ SEE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BISHOP RUBEN DEWAYNE,

Plaintiff,

v.

J.P. MORGAN MORTGAGE ACQUISITION
CORP., AND MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

Defendants.

Civil Action No.1:18-cv-10931

NOTICE OF APPEARANCE

TO: THE CLERK OF COURT AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that the undersigned hereby also appears as counsel of record for Defendant J.P. Morgan Mortgage Acquisition Corp., in the above-captioned action. The undersigned hereby certifies that he is admitted to practice before this court.

Respectfully Submitted,

PARKER IBRAHIM & BERG LLP

Attorneys for Defendants,

J.P.Morgan Mortgage Acquisition Corp.

/s/ Patrick S. Tracey

Patrick S. Tracey, BBO# 659626

Jeffrey Adams, BBO #662697

One Financial Center, 15th Floor

Boston, MA 02111

Phone: 617.918.7613

Facsimile: 617.918.7878

Email: Patrick.Tracey@piblaw.com

Date: September 7, 2018

1
35

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of September 2018, I forwarded a copy of the foregoing Amended Notice of Appearance via the Court's ECF system to all counsel and parties registered in this matter or, if not registered on this Court's CM/ECF system, then via first class mail, postage prepaid.

/s/ Patrick S. Tracey

Patrick S. Tracey

FILED
IN CLERK'S OFFICE
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

U.S. DISTRICT COURT
DIST. CT. OF MASS.

Bishop Ruben DeWayne,)	Case No. 1:18-cv-10931-WGY
)	
Petitioner,)	
)	
vs.)	State Superior Court Case
)	C.A. No. 18-CV-01141A
CIVIL ACTION NO. 2017-SM-006779,)	Filed under Chapter 93A Case
J.P. MORGAN MORTGAGE)	"Trial by Jury Demanded"
ACQUISITION CORP., and)	
MERS, INC.,)	
)	
Respondents.)	Proper Caption not to be changed

JUDICIAL NOTICE AND FORMAL DEMAND
MOTION TO STRIKE THE NON-DEFENDANT
JPMORGAN CHASE BANK NA'S APPEARANCE AND PLEADINGS
(This Non-Defendant Lack Standing to Appear and Plead in this Action)

To: The Clerk of Court, the Record and
JUDGE WILLIAM G. YOUNG:

PLEASE TAKE JUDICIAL NOTICE OF THE OFFICIAL RECORD AND
DOCUMENTS SUBMITTED by the Non-Defendant, JPMORGAN CHASE BANK
NA's unlawful Appearance and Pleadings as follows:

1. The Petitioner did not name this Non-Defendant, JPMORGAN CHASE BANK NA to this action commenced and removed from the Superior Court of Suffolk County to the US District Court for the District of Massachusetts.

CERTIFICATE OF SERVICE

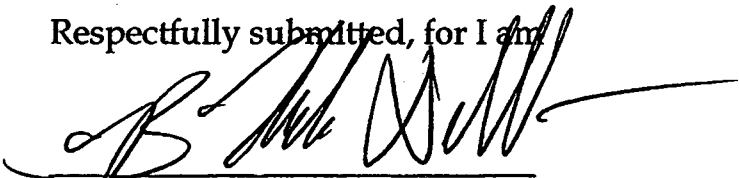
I, the Bishop Ruben DeWayne do hereby declare that I have served a true and correct copy of the Plaintiff's

JUDICIAL NOTICE AND FORMAL DEMAND
MOTION TO STRIKE THE NON-DEFENDANT
IPMORGAN CHASE BANK NA'S APPEARANCE AND PLEADINGS
(This Non-Defendant Lack Standing to Appear and Plead in this Action)

upon the Defendants' Counsel by first class mail, pre-paid this 17th day, of September 11, 2018 at the addresses below.

MERS INC. and
J.P. MORGAN MORTGAGE ACQUISITION CORP.
c/o PARKER IBRAHIM & BERG LLP
One Financial Center
Boston, MA 02111

Respectfully submitted, for I am


Bishop Ruben DeWayne
5105 N. Main Street
Columbia, South Carolina 29203
(803) 200-5105

Full docket text for document 36:

Judge William G. Young: ELECTRONIC ORDER entered denying [34] MOTION to Strike the Non-Defendant JPMorgan Chase Bank NA's Appearance and Pleadings. (Paine, Matthew)

PACER Service Center			
Transaction Receipt			
02/22/2021 13:06:59			
PACER Login:	ammo7700:6146854:0	Client Code:	
Description:	History/Documents	Search Criteria:	1:18-cv-10931-LTS
Billable Pages:	1	Cost:	0.10

~~PATTERN~~ PATTERN OF INCARCERATED/IMPRISONED
LIBERTIES DENIED AND WITHHELD

41

FILED
IN CLERKS OFFICE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No. 1:18-cv-10931-WGY

Bishop Ruben DeWayne,

Petitioner,

vs.

CIVIL ACTION NO. 2017-SM-006779,
J.P. MORGAN MORTGAGE
ACQUISITION CORP., and
MERS, INC.,

Respondents.

Case No. 1:18-cv-10931-WGY

State Superior Court Case
C.A. No. 18-CV-01141A

Filed under Chapter 93A Case
"Trial by Jury Demanded"

Proper Caption not to be changed

JUDICIAL NOTICE OF FALSE & IRREGULAR DOCKETING

(The False Docket received by Petitioner shows Docket #(s) 1, 2, 3, 7, 8, 9, 10, and 11 all state and name J.P. Morgan Mortgage Acquisition Corp., when it was JPMORGAN CHASE BANK NA. who removed & answered along with MERS.,)

To: The Clerk of Court, the Official Record and
JUDGE WILLIAM G. YOUNG:

PLEASE TAKE JUDICIAL NOTICE OF THE OFFICIAL RECORD as submitted
and served upon Petitioner as follows:

1. According to the date that the Defendants received service of the summons and complaint, 04/19/2018: all Defendants are in default. Note: The answer must be received by the complaining party by the cut-off date respecting tolling, and these Defendants did not answer in time. This is the reason the

Defendants motioned the court to enlarge the deadline to respond to the complaint electronically filed 05/16/2018, more than 20 days after being properly served. See the Affidavit of Service on Record.

2. The removal from the State Court to the US District Court was dated 05/09/2018 and done by JPMORGAN CHASE BANK NA, (hereinafter) "CHASE" and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC., (hereinafter) "MERS". See attached MTD
3. J.P. MORGAN MORTGAGE ACQUISITION CORP, (hereinafter) "ACQUISITION" did not participate in the removal.
4. Both CHASE and ACQUISITION are sister subsidiaries of J.P. MORGAN CHASE & CO.
5. As such, the Defendant, ACQUISITION did not take part in the removal nor in the answer (motion to dismiss) the complaint, and as such ACQUISITION is in default.
6. The non-Defendant CHASE took part in the removal and the answer (motion to dismiss) the complaint without being enjoined, substituted or as a third-party interpleader. As such this non-Defendant's pleading must be stricken from the record according to the civil rules and matter of the law.

7. According to the cover sheet bearing the filed date of 05/09/2018, where Defendants' Counsel named SANTANDER BANK NA and Brett Kilmer as the Defendants in this matter. See attached

To further prove Defendant, ACQUISITION did not remove nor answer in this matter; Defendants' counsel finally filed its notice of appearance on behalf of the Defendant, J.P. MORGAN MORTGAGE ACQUISITION CORP on 09/07/2018 and served Petitioner via FedEx on 09/11/2018. See attached

9. WHEREFORE, the Court mailing of the alleged docket and docket #29 Order on Motion for Default Judgment by Bishop Ruben DeWayne [DID NOT HAVE AN ATTACHMENT] attached thereto.

ADVISORY

10. THEREFORE, Judge William G. Young, (hereinafter) "the Court" please take notice under this instant advisement that Petitioner does not request but demands the default judgment against Defendant, ACQUISITION. Not as a favor, but as a rule and matter of Massachusetts General Law and the Federal Rule.

11. ALSO, the Court is placed under advisement that the non-Defendant, CHASE has not petitioned the Court or Record to be enjoined, substituted as a party or as an interpleader as to the record itself is void of.

12. WHEREAS, the Petitioner will not allow Defendant ACQUISITION nor CHASE to act above the Law. No one is above the Law. And this Court should take under advisement this information as to the facts of this matter respecting the parties and pleading plead before the Court.

13. The official record is void of any documentation, motion or leave of motion requesting an enjoinder, requesting substitution of parties or a request to interplead in this action by this Non-Defendant, JPMORGAN CHASE BANK NA, and Petitioner have the right to expose this allowance under color of the law.

Respectfully submitted, for I am



Bishop Ruben DeWayne
5105 N. Main Street
Columbia, South Carolina 29203
(803) 200-5105

9/27/2018

CERTIFICATE OF SERVICE

I, the Bishop Ruben DeWayne do hereby declare that I have served a true and correct copy of the Plaintiff's

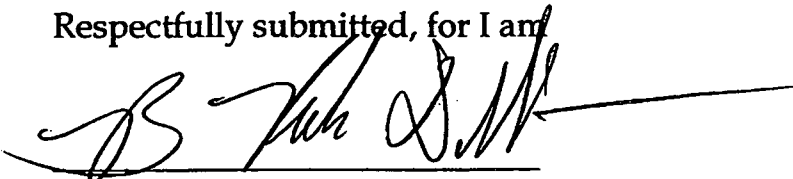
JUDICIAL NOTICE OF FALSE & IRREGULAR DOCKETING

(The False Docket received by Petitioner shows Docket #(s) 1, 2, 3, 7, 8, 9, 10, and 11 all state and name J.P. Morgan Mortgage Acquisition Corp., when it was JPMORGAN CHASE BANK NA. who removed & answered along with MERS.)

upon the Defendants' Counsel by first class mail, (USPS) pre-paid this 27th day, of September, 2018 at the addresses below.

MERS INC. and
J.P. MORGAN MORTGAGE ACQUISITION CORP.
c/o PARKER IBRAHIM & BERG LLP
One Financial Center
Boston, MA 02111

Respectfully submitted, for I am



Bishop Ruben DeWayne
5105 N. Main Street
Columbia, South Carolina 29203
(803) 200-5105

**COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT**

SUFFOLK, ss.

Civil Action No. 1884-CV-01141A

BISHOP RUBEN DEWAYNE,

Plaintiff,

v.

J.P.MORGAN MORTGAGE ACQUISITION
CORP., AND MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,

Defendants.

NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT

TO: THE CLERK OF COURT AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT defendants Defendant, ~~JPMorgan Chase Bank, N.A.~~¹
and ~~Mortgage Electronic Registration Systems, Inc.~~, has filed a Notice of Removal with the
United States District Court for the District of Massachusetts, removing this case to federal court
based on diversity jurisdiction. A true and correct copy of the Notice of Removal is attached
hereto as Exhibit A.

Dated: May 9, 2018

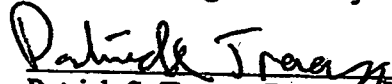
¹ Improperly named in the Complaint as "JPMorgan Mortgage Acquisition Corp."

PARKER IBRAHIM & BERG LLP

Attorneys for Defendants,

JPMorgan Chase Bank, N.A., and Mortgage

Electronic Registration Systems, Inc.



Patrick S. Tracey, BBO #659026

Jeffrey Adams, BBO #662697

One Financial Center, 15th Floor

Boston, MA 02111

Phone: 617.918.7600

Facsimile: 617.918.7878

Email: Patrick.Tracey@piblaw.com

1. (a) PLAINTIFFS
Bishop Ruben DeWayne

(b) County of Residence of First Listed Plaintiff Boston, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Bishop Ruben DeWayne,

DEFENDANTS
Santander Bank, N.A. and Brett Kilmer

County of Residence of First Listed Defendant Monroe, LA
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Patrick S. Tracey, Jeffrey D. Adams, PIB Law, 1 Financial Center,
Boston, MA 02111

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff
(For Diverse Cases Only) and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|--|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

NATURE OF SUIT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES			
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise		PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice		PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other		<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))		<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act	
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education		PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
to 28 U.S.C. §§ 1332, 1441 and 1446

Brief description of cause:

Brief description of cause:
Negligent misrepresentation regarding commercial banking account and MGL c. 93A

VII. REQUESTED IN COMPLAINT:

- | | | |
|---|-------------------------|---|
| <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. | DEMAND \$
500,000.00 | CHECK YES only if demanded in complaint:
JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|-------------------------|---|

**VIII. RELATED CASE(S)
IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE _____

SIGNATURE OF ATTORNEY OF RECORD

05/07/2018

/Patrick S. Tracey/ Bar # 659626

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

49

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BISHOP RUBEN DEWAYNE,

Plaintiff,

v.

J.P.MORGAN MORTGAGE ACQUISITION
CORP., AND MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

Defendants.

Civil Action No.1:18-cv-10931

NOTICE OF APPEARANCE

TO: THE CLERK OF COURT AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that the undersigned hereby appears as counsel of record for Defendant ~~JPMorgan Chase Bank, N.A.~~ in the above-captioned action. The undersigned hereby certifies that he is admitted to practice before this court.

Respectfully Submitted,

PARKER IBRAHIM & BERG LLP

Attorneys for Defendants,

JPMorgan Chase Bank, N.A., and Mortgage
Electronic Registration Systems, Inc.

/s/ Patrick S. Tracey

Patrick S. Tracey, BBO# 659626

Jeffrey Adams, BBO #662697

One Financial Center, 15th Floor

Boston, MA 02111

Phone: 617.918.7600

Facsimile: 617.918.7878

Email: Patrick.Tracey@piblaw.com

Date: June 1, 2018

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BISHOP RUBEN DEWAYNE,

Plaintiff,

v.

J.P.MORGAN MORTGAGE ACQUISITION
CORP., AND MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

Defendants.

Civil Action No.1:18-cv-10931

NOTICE OF APPEARANCE

TO: THE CLERK OF COURT AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that the undersigned hereby appears as counsel of record for Defendant and ~~Mortgage Electronic Registration Systems, Inc.~~ in the above-captioned action.

The undersigned hereby certifies that he is admitted to practice before this court.

Respectfully Submitted,

PARKER IBRAHIM & BERG LLP

Attorneys for Defendants,

JPMorgan Chase Bank, N.A., and Mortgage
Electronic Registration Systems, Inc.

/s/ Patrick S. Tracey

Patrick S. Tracey, BBO# 659626

Jeffrey Adams, BBO #662697

One Financial Center, 15th Floor

Boston, MA 02111

Phone: 617.918.7600

Facsimile: 617.918.7878

Email: Patrick.Tracey@piblaw.com

Date: June 1, 2018

51

Full docket text for document 40:

Judge William G. Young: ELECTRONIC ORDER entered. Motion denied re [39] Petitioner's Demand for Judge Recusal Estoppel Barring Irregular Misconduct in Chambers. (Paine, Matthew)

PACER Service Center			
Transaction Receipt			
02/22/2021 13:07:44			
PACER Login:	ammo7700:6146854:0	Client Code:	
Description:	History/Documents	Search Criteria:	1:18-cv-10931-LTS
Billable Pages:	1	Cost:	0.10

TRUE Thug!

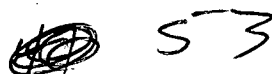


~~52~~ 52

Full docket text for document 58:

Judge Indira Talwani: ELECTRONIC ORDER entered. The clerk shall correct the docket to reflect that documents filed by Defendants' counsel prior to June 11, 2018, were filed on behalf of Mortgage Electronic Registration System, Inc., and non-party JPMorgan Chase Bank, N.A., and not on behalf of J.P. Morgan Acquisition Corp. (DaSilva, Carolina)

PACER Service Center			
Transaction Receipt			
02/22/2021 13:08:28			
PACER Login:	ammo7700:6146854:0	Client Code:	
Description:	History/Documents	Search Criteria:	1:18-cv-10931-LTS
Billable Pages:	1	Cost:	0.10



Full docket text for document 91:

Judge Indira Talwani: ORDER entered. ORDER OF RECUSAL.(MacDonald, Gail)

PACER Service Center			
Transaction Receipt			
05/12/2021 12:42:05			
PACER Login:	ammo7700:6146854:0	Client Code:	
Description:	History/Documents	Search Criteria:	1:18-cv-10931-LTS
Billable Pages:	1	Cost:	0.10

ONCE COPIED to the Dept. of
Justice

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Removed from: THE LAND COURT DEPARTMENT OF THE TRIAL COURT
Suffolk County (Boston) Mass-C/ A No. 19-MISC-000541

Removed to: THE U.S. DISTRICT COURT DISTRICT OF
MASSACHUSETTS Civil Action No. 1:19-cv-132360-RGS

Bishop Ruben DeWayne,

Plaintiff,

vs.

C/ A No. 1-12-cv-11634, (Memo & Order)
C/ A No. 2017-SM-006779, (Judgment)
J.P. MORGAN MORTGAGE
ACQUISITION CORP., and
MORTGAGE ELECTRONIC
REGISTRATION SYSTEM, INC.,

Defendants.

CIVIL ACTION
NO. 3:19-cv-3376-JMC-PJG

OBJECTION AND RETURN
SHOWING JUDICIAL MIS-
CONDUCT, BIASNESS &
BASELESS CONJECTURES
WITHOUT JUST CAUSE

This Action was Removed
"and Trial by Jury Demanded"

This United States Magistrate Judge, Paige J. Gossett being assigned to this matter
has rendered his bag full of baseless Conjectures as stated in his ORDER, RECOMMENDATION
AND RECOMMENDATION dated Friday, December 6, 2019 @ 11:45AM, EST.
whereas Plaintiff commenced this matter on November 1, 2019 due to the "Allonge
to Note" naming multiple unheard-of entities which in itself placed Clouds on
Title, giving rise and the direct cause to "Try Title" as follows: ...but First,
Definitions of certain words used in this writ and their meanings shall also apply.

DEFINITIONS

conjecture, a noun

an opinion or conclusion formed on the basis of incomplete information.

Fraud, a noun

deceit, trickery specifically: intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right. Also, an act or course of deception, an intentional concealment, omission, or perversion of the truth, to again, (1) gain unlawful or unfair advantage, (2) induce another to part with something valuable or to surrender a legal right, or (3) inflict injury in some manner.

Judicial Misconduct, a noun

occurs when a judge acts in ways that are considered unethical or otherwise violate the judge's obligations of impartial conduct failing to remain neutral.

Actions that can be classified as judicial misconduct include: conduct prejudicial to the effective and expeditious administration of the business of the courts in all fairness (as an extreme example: "falsification of facts" at summary judgment); using the judge's office to obtain special treatment for friends or relatives; accepting bribes, gifts, or other personal favors related to the judicial office; having improper discussions with parties or counsel for one side in a case; treating litigants or attorneys in a demonstrably egregious and hostile manner; violating other specific, mandatory standards of judicial conduct, such as judicial rules of procedure or evidence, or those pertaining to restrictions on outside income and requirements for financial disclosure; and acting outside the jurisdiction of the court, or performance of official duties if the conduct might have a prejudicial effect on the administration of the business of the courts among reasonable people. Rules of official misconduct also include rules concerning disability, which is a temporary or permanent condition rendering judge unable to discharge the duties of the particular judicial office.^[1]

Void Judgments, a noun

A **void judgment** which includes **judgment** entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular **judgment**, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is ...

A void judgment is not entitled to the respect accorded to a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. 30A Am Jur Judgments " 44, 45. It is a fundamental doctrine of law that a party to be affected by a personal judgment must have his day in court, and an opportunity to be heard. Renaud v. Abbott, 116 US 277, 29 L Ed 629, 6 S Ct 1194. Every person is entitled to an opportunity to be heard in a court of law upon

every question involving his rights or interests, before he is affected by any judicial decision on the question. *Earle v McVeigh*, 91 US 503, 23 L Ed 398.

FACTS

1. Hereto, this United States Magistrate Judge, Paige J. Gossett (hereinafter) Judge "Gossett" has openly demonstrated Judicial Misconduct, bias and prejudice while hiding behind 28 U.S.C. 636(b) and Rule 73.02(B)(2) on Plaintiff's motion for a temporary restraining order originally filed and accepted in the Suffolk County Land Court for good causes shown then and will be further shown herein as follows.
2. Judge Gossett's Order, Report and Recommendation are completely full of what he (Gossett) believed in theory to be true, as to what Plaintiff's intentions were when Plaintiff brought this matter in the Suffolk County Land Court, along with the purpose that this matter sought forth to achieve. But to the Contrary, these Conjectures used by Judge Gossett are completely untrue, baseless and without merit or foundation given the facts and evidence contained in the Verified Complaint to Try Title and the right to exercising a right where Plaintiff holds a valid interest in land and property.
3. Proof of these allegations are evident seeing Judge Gossett failed to even mention anywhere in his thorough report and recommendation what Common-law Authority was used in the Commonwealth of Massachusetts; brought under Massachusetts General Law (MGL) MGL c. 240 sec. 1-5 to "Try Title" and also

MGL c. 185 sec. 1(k) "Equitable Action Involving any Right, Title or Interest in Land."

4. Here Judge Gossett would have both the Court and Record believe in his much speaking (in theory) that Plaintiff filed this action to prevent a foreclosure action which remains an out-right lie. WHEREFORE, for the Record: **"To prevent and stop a foreclosure action in its track, one simply would need to file bankruptcy."** Again we see Judge Gossett has left the well-established rule of law... "that the Plaintiff's statements are to be taken as true." *The U.S. Supreme Court*. Not these unfounded statements of Judge Gossett's conjectures.

CAUSE FOR THIS ACTION

5. Due to and as a direct result of the Clouds on Title in respect to Defendant, ACQUISITION's "Allonge to Note" that named these multiple unknown corporate entities and information as follows: "Without recourse" "JPMORGAN CHASE BANK, N.A. Successor by Merger to CHASE HOME FINANCE, LLC, Successor by Merger to CHASE MANHATTAN MORTGAGE CORPORATION Attorney in Fact for WELLS FARGO BANK, N.A., Successor by Merger to WELLS FARGO BANK OF ARIZONA, N.A., f/k/a FIRST INTERSTATE BANK OF ARIZONA, N.A., f/k/a FIRST NATIONAL BANK OF ARIZONA." Again, Judge Gossett failed to include any of this information in his report and

recommendation. However, keep in mind that Defendant, ACQUISITION is not mentioned here. See exhibit 1 Allonge to Note.

6. Also, keep in mind that the MERS' Assignment did not convey or assign the mortgage to any of the above-named parties listed in this Allonge to Note.
7. Accordingly, the official record only shows one single assignment Six (6) years after the original bank, First National Bank of Arizona (FNBA) was purchased my merger to 1st National Bank of Nevada (FNBN), then both FNBN and FNBA became defunct by a non-MERSCORP member, the Office of the Comptroller of the Currency (OCC) who closed them and were added to the list of U.S. failed banks, which shall be discussed later when evidence may be entered into the Wells of the Official Record.
8. According to the flow of rights listed on the Allonge to Note, J.P. MORGAN MORTGAGE ACQUISITION CORP. is not even mentioned at all. Any reasonable minded person sitting in the seat of such authority should have at once questioned why? But not Judge Gossett.
9. The MERS' assignment to ACQUISITION is the only assignment appearing on Title, while the Allonge to Note bears the same date of the loan, but also bears an incorrect loan number. Why did Judge Gossett failed to mention or include this information in his report?

10. The names given in the Allonge to Note are similar to the original Lender, First National Bank of Arizona (Scottsdale), however of those named, FIRST INTERSTATE BANK OF ARIZONA, N.A., f/k/a FIRST NATIONAL BANK OF ARIZONA were purchased by merger to WELLS FARGO BANK, N.A. and both FIRST INTERSTATE BANK OF ARIZONA, N.A., f/k/a FIRST NATIONAL BANK OF ARIZONA became inactive effective September 1996, more than Eleven (11) years prior to the subject loan issuance. Why did Judge Gossett failed to mention or include this information in his detailed report? Conjectures!!!
11. The importance of showing unfair and deceptive business practices should have been enough evidence and reason for any reasonable minded person to explore this conspiracy of manufacturing documentation in collusion with the District Court in MA where the subject Allonge to Note was not a part of the closing documents, dated the exact same day of the loan but bearing yet a different loan number. Why did Judge Gossett failed to mention or include this information in his report?
12. But there is much more. The MERS' assignment was executed in the State of LA before a notary public for the State of LA showing MERS committed an act in that State. See exhibit 2 Assignment of Mortgage (not the note).
13. So howbeit, the subject assignment bears a conflict of interest on its face? LeShonda Anderson acted as both the Assistant Secretary for MERS while also acting as

Agent for JPMORGAN CHASE BANK, N.A.? Why did Judge Gossett failed to mention or include this information in his report? Conjectures!!!

14. Furthermore, the Assignment also bearing the same incorrect (wrong) loan number that appeared also on both, the Allonge to Note dated the same day of the loan and also hand written at the top of the mortgage. Keeping in mind that the original note and mortgage bears the correct loan number and MIN number, however upon the removal the Defendants "REDACTED" hid the proper numbers showing unfair and deceptive business practices which is also deemed a fraud.
15. Had Judge Gossett remained neutral and not bias and prejudice towards Plaintiff, he would have understood more clearly that ACQUISITION's and MERS' removal of this action from the State Court with appearances is yet another deception seeing that again, CT Corporation System being the registered agent for MERS, MERSCORP and MERSCORP HOLDINGS gave iron clad proof by yet another letter that states "MERS, INC. is not listed on our records and is not listed on the record of the State of LA." "CT was unable to forward the summons and complaint." So why is this information withheld from the official record of his report? See exhibit 3 and also 4 in respect to this matter the CT Letters.
16. As such, this important information regarding MERS not being served with the summons or the complaint, showing MERS have no knowledge that it is party to this and prior actions, but yet it has replied by way of Counsel. Why did Judge

22. In Re: Bishop Ruben DeWayne, Bankruptcy Case Number 18-02163-dd, Plaintiff commenced an Adversarial Proceeding where again MERS was not served with the summons and complaint, such was noticed upon the Court, but said Court remained silent on that point and ruled anyway in MERS favor. Again see the CT Letter attached hereto as exhibit 3

23. Had Judge Gossett remained neutral he would have seen the current docket for Civil Action No. 1:18-cv-10931 shows "the non-Defendant JPMORGAN CHASE BANK, N.A. took part in the removal, the motion for extension of time to answer, its notice of appearance and the motion to dismiss. How can non-parties file pleadings in matters where it was not named a party, not enjoined or substituted as a party, and where it failed to file notice of leave to be enjoined as a third-party interpleader? Maybe Judge Gossett can explain why the non-Defendant, JPMORGAN CHASE BANK, N.A. (CHASE) was not stricken from the record when there remains a timely motion to strike CHASE was blatantly denied? Here again Judge Gossett fail to include this information in his detailed report? Oh yes, his theories of Conjectures again!!! This behavior repeatedly from the bench (Gossett) may also be deemed a fraudulent.

24. In Civil Action No. 1:18-cv-10931-IT the U.S. District Court denied Plaintiff his default judgment against ACQUISITION on the same day ACQUISITION finally filed its notice of appearance. Wow!!! No wonder why this corruption from these

U.S. District Court as stated by the President, Donald Trump supports these statements whereby only when one reaches the U.S. Supreme Court can one receive the equitable relief and remedy that this Plaintiff is sure to achieve proper adjudication.

25. In Civil Action No. 1:18-cv-10931 these U.S. District Courts that heard or entertained this matter, condoned both irregular and erroneous docketing entries, allowed incorrect information as to what was filed or not, as well as the docket claiming one party enacted and filed on record, while what was actually filed was done by another. While all of this skullduggery was going on, these assigned judges withheld repeated mandatory relief due and owing according to the governing rules of the Federal Rules of Civil Procedures that was afore reserved; and not waived at any time. As such, every order, memorandum and judgment issued by these crooked courts are void. Even on their faces seeing that with Leitta Brooks, Plaintiff's predecessor and Plaintiff were repeatedly denied opportunity to explain themselves in a meaningful way. Instead, these longstanding judges use a common tactic of questioning the *pro se litigants* instead of allowing them to present their own matter as they determine when they have the floor. Otherwise, such questioning by these courts in theory believe it affords these *pro se litigants* their opportunity to be heard which to the contrary against their rights.

NO OPPORTUNITY TO BE HEARD

26. A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. *Sabariego v Maverick*, 124 US 261, 31 L Ed 430, 8 S Ct 461, and is not entitled to [r]espect in any other tribunal. "A void judgment does not create any binding obligation."
27. A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its want of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists." *People v. Greene*, 71 Cal. 100 [16 Pac. 197, 5 Am. St. Rep. 448]. "If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment is to that extent void." (1Freeman on Judgments, 120c.) An illegal order is forever void which is what the U.S. District Courts in MA had repeatedly done.

The Law of Void Judgments and Decisions Supreme Court Decisions on Void Orders and Judgments

28. A judgment may not be rendered in violation of constitutional protections. The validity of a judgment may be affected by a failure to give the constitutionally required due process notice and an opportunity to be heard. *Earle v. McVeigh*, 91 US 503, 23 L Ed 398. See also Restatements, Judgments ' 4(b). *Prather v Loyd*, 86 Idaho 45, 382 P2d 910. The limitations inherent in the requirements of due process and equal protection of the law extend to judicial as well as political branches of

government, so that a judgment may not be rendered in violation of those constitutional limitations and guarantees. *Hanson v Denckla*, 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228. A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded, or declared inoperative by any tribunal in by which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place. ... It is not entitled to enforcement ... All proceedings founded on the void judgment are themselves regarded as invalid. 30A Am Jur Judgments " 44, 45 as violated in Civil Action No. 1-12-cv-11634, Memorandum, Order and Judgment dated 7-17-2013, in Civil Action No. 2017-SM-006779, Judgment to Foreclose *under the Soldier and Sailor's Act*, and also in Civil Action No. 1:18-cv-10931 for Declaratory Judgment concerning rights, status, and relations between the parties when property and interest in property is involved.

29. Had Judge Gossett properly used the vast resources at his fingertips, he would have easily discovered the same F. Dennis Saylor, a/k/a SAYLOR J.'s who lied under oath and brought fraud upon his court in *Brooks v. JPMORGAN CHASE BANK, N.A.*, Civil Action No 1:12-cv-11634 also issued his memorandum and order in *Lewis v. Bank of New York Mellon Trust Co., et al*, 1:16-cv-11122-FDS, dated August 31, 2016 where he states under subsection III. Analysis,

A. Assignment of the Mortgage, F. Dennis Saylor states, "Before addressing the issues raised by Defendants' motion, some background on foreclosure law in Massachusetts and the MERS system is warranted."

"Under Massachusetts law, if a mortgage grants a statutory "power of sale" and the mortgagor defaults, as is the case here, an authorized party "may sell the property at a public auction and convey the property to the purchaser in fee simple." *U.S. Bank Nat'l Ass'n v. Ibanez*, 458 Mass. 637, 641 (2011) (citing Mass. Gen. Laws ch. 183, § 21). "Recognizing the substantial power that the statutory scheme affords to a mortgage holder to foreclose without judicial oversight, **[courts must] adhere to the familiar rule that one who sells under a power of sale must follow strictly [the statute's] terms.**" *Id.* At 646 (internal quotation marks and alterations omitted). "One of the terms of the power of sale that **must be strictly adhered to is the restriction on who is entitled to foreclose.**" *Id.* At 647. "[O]nly 'the mortgagee or his executors, administrators, successors or assigns' can exercise a statutory power of sale . . . and foreclose without prior judicial authorization." *Mills v. U.S. Bank, NA*, 753 F.3d 47, 50 (1st Cir. 2014) (citing Mass. Gen. Laws ch. 183, § 21); *accord Ibanez*, 458 Mass. At 646.

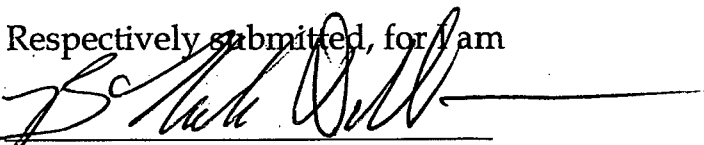
A mortgagee has the authority to exercise the power of sale only if it was the assignee of the mortgage at the time of the notice of sale and the subsequent foreclosure sale. *Ibanez*, 458 Mass. At 648. However, **for foreclosure sales occurring after June 22, 2012, simply holding the mortgage is necessary, but not sufficient, to exercise a power of sale; a mortgagee must also hold the promissory note or act as the authorized agent of the note holder.** *Eaton v. Federal Nat'l Mortg. Ass'n*, 462 Mass. 569, 582-84 (2012); *accord Woods v. Wells Fargo Bank, N.A.*, 733 F.3d 349, 356 (1st Cir. 2013) ("**Where the note and mortgage are unified at the time of foreclosure, our inquiry must come to an end.**" (citing *Eaton*, 462 Mass. At 582-84)).

MERS functions to streamline the process of securitization and trading of mortgages. A MERS member, upon becoming a lender, names MERS as its nominee and the mortgagee of record and inputs the mortgage into the MERS database. The mortgage note can then be assigned freely among MERS members, with MERS—as mortgagee of record—authorizing and memorializing these trades while circumventing much of the time and paperwork associated with traditional assignments. "[O]nly when a note is transferred to a non-MERS member institution does MERS transfer away its interest as mortgagee, thus

ending its involvement in the assignment process." *F. Dennis Saylor, U.S. District Court Judge. And this Plaintiff also agrees.*

30. For any reasonable minded person holding such authority knows that the government, the Office of the Comptroller of the Currency (OCC) is a non-MERSCORP member institution. The FDIC is a non-MERSCORP member institution. When the OCC closed FNBN and FNBA resulting from the defunct; (bank failure) MERS' contract ended, thus ending all of its involvement in all process of acquisition, sale and transfer by a non-MERSCORP members. As stated above.
31. CAUTION SHOULD BE TAKEN AFTER THIS FORMAL NOTICE, even to read and review all relevant information contained hereto for proper judicial accountability where Plaintiff holds the same to the full extent of the law for the continued willful and reckless behavior from the bench.

Respectively submitted, for I am



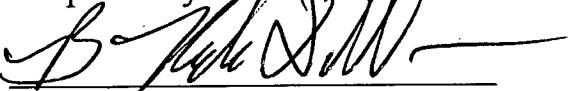
Bishop Ruben DeWayne
5105 N. Main Street Bld. A.
Columbia, South Carolina 29203
(803) 200-5105

CERTIFICATE OF SERVICE:

I, Bishop Ruben DeWayne do hereby certify that I have served a true and correct copy of Plaintiff's Objection and Return showing Judicial Misconduct upon the Defendants' Counsel First Class Mail this 16 day of December, 2019 at the address listed below.

J.P. MORGAN MORTGAGE ACQUISITION CORP. and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC.
NELSON et al.,
1320 Main Street, 17 Floor
Columbia, South Carolina 29201

Respectfully submitted, for I am



The Bishop Ruben DeWayne
c/o 5105 N. Main Street Bld. A.
Columbia, South Carolina 29203
(803) 200-5105

cc: Leitta Brooks

EXHIBIT 1

Alonge to Note

Loan #: 1927372925

Borrower: Leitta Brooks

Address: 53 Charlotte Street
Dorchester, MA 02121

Loan Amount: \$500,000.00

Alonge to one certain note dated May 11, 2007 and executed by Leitta Brooks.

Pay to the order of _____ its successor and/or
assigns without recourse in any event.

Without recourse

JPMORGAN CHASE BANK, N.A. SUCCESSOR BY MERGER TO CHASE HOME
FINANCE, LLC S/B/M TO CHASE MANHATTAN MORTGAGE CORPORATION
ATTORNEY IN FACT FOR WELLS FARGO BANK N.A. S/B/M TO WELLS FARGO
BANK OF ARIZONA, N.A. F/K/A/ FIRST INTERSTATE BANK OF ARIZONA N.A.
F/K/A FIRST NATIONAL BANK OF ARIZONA

CONNIE O. ADAMS

Name of Signor: CONNIE O. ADAMS
Title of Signor: VICE PRESIDENT

Exhibit 1

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EXHIBIT 2

When Recorded Return To:
JPMorgan Chase Bank, NA
C/O Nationwide Title Clearing, Inc.
2100 AH, 19 North
Palm Harbor, FL 34683

2014 00077834
BA: 53504 Pg: 72 Page: 1 of 1
Recorded: 08/22/2014 02:25 PM
ATTEST: Francis M. Ronche, Register
Suffolk County Registry of Deeds

Loan #: 1927372923



ASSIGNMENT OF MORTGAGE

Contact JPMORGAN CHASE BANK, N.A. for this instrument 780 Kansas Lane, Suite A, Monroe, LA 71203, telephone # (866) 756-8747, which is responsible for receiving payments.
FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the undersigned, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS, WHOSE ADDRESS IS P.O. BOX 2026, FLINT, MI, 48501-2026, (ASSIGNOR), by these presents does convey, grant, assign, transfer and set over the described Mortgage with all interest secured thereby, all liens, and any rights due or to become due thereon to J.P. MORGAN MORTGAGE ACQUISITION CORP., WHOSE ADDRESS IS 700 KANSAS LANE, MC 8088, MONROE, LA 71203, ITS SUCCESSORS AND ASSIGNS, (ASSIGNEE).

Said Mortgage bearing the date 05/11/2007, made and executed by LEBITA BROOKS, mortgagor(s), to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC AS NOMINEE FOR FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS, mortgagee, and was recorded in the Office of the Register of Titles and County Recorder for SUFFOLK County, Massachusetts on 05/14/2007, in Book 41790, Page 118 and Instrument # 2007 00054365.

Property is commonly known as: 53 CHARLOTTE STREET, DORCHESTER, MA 02121.

IN WITNESS WHEREOF, the said CORPORATION has caused these present to be executed in its name by its ASST. SECRETARY on 09/08/2014 (MM/DD/YYYY).
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS

By: Leshonda Anderson
Leshonda Anderson
ASST. SECRETARY

STATE OF LOUISIANA, PARISH OF OUACHITA
on 09/08/2014 (MM/DD/YYYY), before me appeared
Leshonda Anderson to me personally known, who did say that he/she/they is/are the
ASST. SECRETARY of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR
FIRST NATIONAL BANK OF ARIZONA, ITS SUCCESSORS AND ASSIGNS and that the instrument was
signed on behalf of the corporation (or association), by authority from its board of directors, and that he/she/they
acknowledged the instrument to be the free act and deed of the corporation (or association).

Eva Reese
Notary Public - State of LOUISIANA
Commission expires: Upon My Death

EVA REESE
OUACHITA PARISH, LOUISIANA
LIFETIME COMMISSION
NOTARY ID# 17070

☐ No Mortgage Broker was involved in the placing of this loan.
Mortgage Broker's Name:
Address: ..
License:

☐ No Mortgage Loan Originator was involved in the placing of this loan.
Mortgage Loan Originator's Name:
Address: ..
License:

Instrument Prepared By: Leshonda Anderson JPMorgan Chase Bank, N.A., 780 Kansas Lane, Suite A, Monroe, LA, 71203

JPCAS 24437457 - CHASE MIN 10013553000542179 MERS PHONE 1-888-679-6377 T0514091113
[C-1] FRMMA1



D0007366318

Exhibit 2

074

PERSONALLY APPEARED
in Louisiana Report
Notary →

SIGN FOR
CHASE TOO →

EXHIBIT 3

CT

June 26, 2018

Bishop Ruben DeWayne
5150 N. Main Street Bid. A.,
Columbia, SC 29203

Re: Bishop Ruben DeWayne, Pltf. vs. First National Bank of Arizona, et al., Dfts. // To: Mortgage Electronic
registration Systems Inc.

Case No. 1880041DD

Dear Sir/Madam:

Mortgage Electronic Registration Systems, Inc. is not listed on our records or on the records of the State of LA.

CT was unable to forward.

Very truly yours,

C T Corporation System

Log# 533568506

Sent By Regular Mail

cc: --

(Returned To)

Bishop Ruben DeWayne
5150 N. Main Street Bid. A.,
Columbia, SC 29203

Exhibit 3
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EXHIBIT 4

CT

November 06, 2019

Bishop Ruben DeWayne
5105 N. Main Street Bldg. A.,
Columbia, SD 29203

Re: Bishop Ruben DeWayne, Pltf. vs. C/A No. 1-12-CV-11634, (Memo & Order), et al., Dfts. // To:
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC.

Case No. 19MISC000541

Dear Sir/Madam:

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC. is not listed on our records or on the records of
the State of LA.

CT was unable to forward.

Very truly yours,

C T Corporation System

Log# 536575089

Sent By Regular Mail

cc: --

Exhibit 4

(Returned To)

Bishop Ruben DeWayne
5105 N. Main Street Bldg. A.,
Columbia, SD 29203

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Bishop Ruben DeWayne,

Plaintiff,

v.

J.P. Morgan Mortgage Acquisition Corp.
and Mortgage Electronic Registration
Systems, Inc.,

Defendants.

Civil Action No.: 3:19-cv-03376-JMC

ORDER AND OPINION

Plaintiff Bishop Ruben DeWayne ("Plaintiff") filed this *pro se* action against Defendants J.P. Morgan Mortgage Acquisition Corp. and Mortgage Electronic Registration Systems, Inc. (collectively "Defendants"), seeking to prevent a foreclosure action. (See ECF No. 1.) On June 2, 2020, the court entered an Order and Opinion ("June Order") dismissing Plaintiff's Complaint with prejudice. (ECF No. 25.)

This matter is before the court on Plaintiff's Motion for Reconsideration of the June Order pursuant to Federal Rule of Civil Procedure 59(e). (ECF No. 28.) For the reasons set forth below, the court **DENIES** Plaintiff's Motion for Reconsideration (ECF No. 28).

I. RELEVANT BACKGROUND TO PENDING MOTION

Plaintiff filed his initial Complaint in the Massachusetts Land Court, Suffolk County on November 1, 2019, asserting that he was facing foreclosure on December 9, 2019 and moving for a temporary restraining order against Defendants. (ECF No. 1 at 5.) On November 15, 2019, Defendants removed the case to the United States District Court for the District of Massachusetts. (*DeWayne v. JP Morgan Mortgage Acquisition Corporation*, C/A No. 1:19-cv-12360-RGS (D. Mass.), ECF No. 1.) Plaintiff filed a Motion to Change Venue on December 2, 2019 which was

JUDGMENT dismissing the action with prejudice. (encl.)
Full docket text for document 36:

PACER Service Center			
Transaction Receipt			
02/12/2021 03:40:18			
PACER Login:	amano7300.61468240	Client Code:	
Description:	History/Documents	Search Criteria:	3:19-cv-01376- JMC
Billable Pages:	1	Cost:	0.10

88

APPEAL TRANSMITTAL SHEET (non-death penalty)

Transmittal to 4CCA of notice of appeal filed: <u>08/17/20</u> <input checked="" type="checkbox"/> First NOA in Case <input type="checkbox"/> Subsequent NOA-same party <input type="checkbox"/> Subsequent NOA-new party <input type="checkbox"/> Subsequent NOA-cross appeal <input type="checkbox"/> Paper ROA <input type="checkbox"/> Paper Supp. Vols: _____ Other: _____	District: South Carolina Division: Columbia Caption: Bishop Ruben DeWayne Vs. J.P. Morgan Mortgage Acquisition Corp et al	District Case No.: 3:19-cv-03376-JMC 4CCA No(s). for any prior NOA: 4CCA Case Manager:
Exceptional Circumstances: <input type="checkbox"/> Bail <input type="checkbox"/> Interlocutory <input type="checkbox"/> Recalcitrant Witness <input type="checkbox"/> Other _____		
Confinement-Criminal Case: <input type="checkbox"/> Death row-use DP Transmittal <input type="checkbox"/> Recalcitrant witness <input type="checkbox"/> In custody <input type="checkbox"/> On bond <input type="checkbox"/> On probation Defendant Address-Criminal Case:	Fee Status: <input type="checkbox"/> No fee required (USA appeal) <input type="checkbox"/> Appeal fees paid in full <input type="checkbox"/> Fee not paid Criminal Cases: <input type="checkbox"/> District court granted & did not revoke CJA status (continues on appeal) <input type="checkbox"/> District court granted CJA & later revoked status (must pay fee or apply to 4CCA) <input type="checkbox"/> District court never granted CJA status (must pay fee or apply to 4CCA) Civil, Habeas & 2255 Cases: <input checked="" type="checkbox"/> Court granted & did not revoke IFP status (continues on appeal) <input type="checkbox"/> Court granted IFP & later revoked status (must pay fee or apply to 4CCA) <input type="checkbox"/> Court never granted IFP status (must pay fee or apply to 4CCA) PLRA Cases: <input type="checkbox"/> Proceeded PLRA in district court, no 3-strike determination (must apply to 4CCA) <input type="checkbox"/> Proceeded PLRA in district court, determined to be 3-striker (must apply to 4CCA)	
District Judge: J. Michelle Childs	Sealed Status (check all that apply): <input type="checkbox"/> Portions of record under seal <input type="checkbox"/> Entire record under seal <input type="checkbox"/> Party names under seal <input type="checkbox"/> Docket under seal	
Court Reporter (list all): Coordinator: Peppa Caskey	Record Status for Pro Se Appeals (check any applicable): <input checked="" type="checkbox"/> Assembled electronic record transmitted <input type="checkbox"/> Additional sealed record emailed to 4cca-filing <input type="checkbox"/> Paper record or supplement shipped to 4CCA <input checked="" type="checkbox"/> No in-court hearings held <input type="checkbox"/> In-court hearings held – all transcript on file <input type="checkbox"/> In-court hearings held – all transcript not on file <input type="checkbox"/> Other: _____	
Record Status for Counseled Appeals (check any applicable): <input type="checkbox"/> Assembled electronic record available if requested <input type="checkbox"/> Additional sealed record available if requested <input type="checkbox"/> Paper record or supplement available if requested <input type="checkbox"/> No in-court hearings held <input type="checkbox"/> In-court hearings held – all transcript on file <input type="checkbox"/> In-court hearings held – all transcript not on file <input type="checkbox"/> Other: _____		

Deputy Clerk: s/Angie Snipes Phone: 803-253-3489 Date: 08/17/20

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U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 11/9/2020 at 3:57 PM EDT and filed on 11/9/2020

Case Name: DEWAYNE v. UNITED STATES et al

Case Number: 1:20-cv-00515-APM

Filer:

WARNING: CASE CLOSED on 07/28/2020

Document Number: No document attached

Docket Text:

MINUTE ORDER. Plaintiff's [45] Motion for Leave to Appeal in forma pauperis is granted. The Clerk shall transmit this order promptly to the Court of Appeals. Signed by Judge Amit P. Mehta on 11/09/2020. (lcapm3)

1:20-cv-00515-APM Notice has been electronically mailed to:

Patricia K. McBride patricia.mcbride@usdoj.gov, reginald.rowan@usdoj.gov, usadc.fmcs@usdoj.gov

Tonya Maria Esposito tesposito@seyfarth.com, rappel@seyfarth.com, rekramer@seyfarth.com, swells@seyfarth.com, wdcdoctring@seyfarth.com

1:20-cv-00515-APM Notice will be delivered by other means to::

RUBEN DEWAYNE
5105 N. Main Street
Bld. A
Columbia, SC 29203

FILED: December 11, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-1889
(3:19-cv-03376-JMC)

BISHOP RUBEN DEWAYNE

Plaintiff - Appellant

v.

JP MORGAN MORTGAGE ACQUISITION CORP.; MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS, INC.

Defendants - Appellees

M A N D A T E

The judgment of this court, entered November 19, 2020, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

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Select a Case

There was 1 matching person.

There were 4 matching cases.

Name	Case No.	Case Title	Chapter / Lead BK case	Date Filed	Party Role	Date Closed
DeWayne, Bishop Ruben (pty) (4 cases)	<u>18-02163-dd</u>	Bishop Ruben DeWayne	7	04/27/18	Debtor	09/18/18
	<u>18-80041-dd</u>	DeWayne et al v. First National Bank of Arizona c/o MERS Inc et al	Lead BK: 18- 02163-dd Bishop Ruben DeWayne	06/07/18	Debtor	10/12/18
	<u>19-06416-dd</u>	Bishop Ruben DeWayne	7	12/06/19	Debtor	02/04/20
	<u>19-80104-dd</u>	DeWayne et al v. First National Bank of Arizona et al	Lead BK: 19- 06416-dd Bishop Ruben DeWayne	12/27/19	Debtor	01/30/20

PACER Service Center			
Transaction Receipt			
05/12/2021 20:47:04			
PACER Login:	ammo7700	Client Code:	
Description:	Search	Search Criteria:	LName: DeWayne FName: Bishop
Billable Pages:	1	Cost:	0.10

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5275**September Term, 2020****1:20-cv-00515-APM****Filed On: January 21, 2021**

Ruben Dewayne, Bishop,

Appellant

v.

United States, et al.,

Appellees

BEFORE: Pillard, Katsas, and Walker, Circuit Judges

ORDER

Upon consideration of the motion to strike/dismiss the notice of appeal filed by J.P. Morgan Mortgage Acquisition Corp. and Mortgage Electronic Registration Systems, Inc. (collectively, the "Mortgage Defendants"), which the court construes as a motion to dismiss the appeal, and the response thereto, it is

ORDERED that the motion be granted and the appeal be dismissed as to the Mortgage Defendants as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). Appellant's claims against the Mortgage Defendants lack "an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989). It is

FURTHER ORDERED, on the court's own motion, that the appeal be dismissed as to the United States as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). Appellant's allegations against the United States are "clearly baseless," Denton v. Hernandez, 504 U.S. 25, 32-33 (1992), and he has not made any non-frivolous argument that the United States has waived its sovereign immunity, see F.D.I.C. v. Meyer, 510 U.S. 471, 475 (1994).

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5275

September Term, 2020

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Manuel J. Castro

Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5275

September Term, 2020

1:20-cv-00515-APM

Filed On: April 9, 2021

Ruben Dewayne, Bishop,

Appellant

v.

United States, et al.,

Appellees

BEFORE: Pillard, Katsas, and Walker, Circuit Judges

ORDER

Upon consideration of the petition for rehearing, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20-5275

September Term, 2020

1:20-cv-00515-APM

Filed On: April 19, 2021 [1895132]

Ruben Dewayne, Bishop,

Appellant

v.

United States, et al.,

Appellees

MANDATE

In accordance with the order of January 21, 2021, and pursuant to Federal Rule of Appellate Procedure 41, this constitutes the formal mandate of this court.

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Daniel J. Reidy

Deputy Clerk

[Link to the order filed January 21, 2021](#)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BISHOP RUBEN DEWAYNE,

Plaintiff,

V.

THE UNITED STATES, et al.,

Defendants.

Case No. 20-cv-00515 (APM)

MEMORANDUM OPINION

Pro se Plaintiff Bishop Ruben DeWayne filed this action against the United States, J.P. Morgan Mortgage Acquisition Corp., and Mortgage Electronic Registration Systems, Inc. *See* Compl., ECF No. 1, ¶¶ 3–5. Although Plaintiff styles his Complaint as a “Civil R.I.C.O. Action,” *see id.* at 1, his actual listed causes of action are for “Unfair and Deceptive Acts in Commerce,” “Placed False and Misleading Information on Recorded [sic],” and “Slander and Defamation of Character,” *id.* ¶¶ 52–61. These claims appear to be predicated on a series of prior lawsuits filed by either Plaintiff or one Leitta Brooks concerning a mortgage foreclosure, and Plaintiff’s unhappiness with the adverse decisions made by various federal judges in the District of Massachusetts (whom Plaintiff refers to as “culpable thugs”). *See, e.g., id.* ¶¶ 21, 33–44. For the following reasons, this action is dismissed with prejudice.

First, the court lacks subject matter jurisdiction with respect to any claims against the United States. Plaintiff offers no ground for waiver of the United States’ sovereign immunity. *See Buaiz v. United States*, 471 F. Supp. 2d 129, 134 (D.D.C. 2007) (“It is a bedrock principle of American law that the United States, as sovereign, is immune from suit unless Congress has

expressly waived that immunity [F]ederal courts lack subject matter jurisdiction over suits against the United States in the absence of a waiver.” (citations omitted)); *see also Davis v. United States*, 196 F. Supp. 3d 106, 113 (D.D.C. 2016) (“The plaintiff bears the burden of establishing both the court’s statutory jurisdiction and the government’s waiver of its sovereign immunity.” (internal quotation marks and citation omitted)). To the extent Plaintiff’s claims against the United States can be construed as sounding in tort, there is no indication that he has complied with the jurisdictional notice requirements of the Federal Tort Claims Act (“FTCA”). *See Bowden v. United States*, 106 F.3d 433, 441 (D.C. Cir. 1997). Finally, Plaintiff has failed to state any plausible claim against the United States under the FTCA.

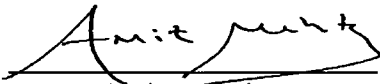
Second, the court lacks subject matter jurisdiction with respect to the claims against the other Defendants because the Complaint fails to present a “substantial federal question.” *See Shapiro v. McManus*, 136 S. Ct. 450, 455 (2015). Reading his Complaint generously, Plaintiff asserts a single cause of action under the civil RICO statute, but that claim is “wholly insubstantial and frivolous.” *Id.* at 455–56 (quoting *Bell v. Hood*, 327 U.S. 678, 682–83 (1946)). The alleged acts making up that RICO claim are either fabulous or involve the immune actions of federal judges. *See* Compl. ¶¶ 34–44. Moreover, even if Plaintiff manages to clear the “low” bar of substantiality, *see Shapiro*, 136 S. Ct. at 456, he has not plausibly pleaded a RICO claim. He identifies no valid predicate racketeering activity, *see* 18 U.S.C. § 1961(1); nor does he set forth any plausible pattern of such activity or a RICO enterprise, *see H.J. Inc. v. Nw. Bell Tel. Co.*, 492 U.S. 229, 242–43 (1989). Absent a plausible RICO cause of action, the court declines to exercise supplemental jurisdiction over Plaintiff’s state-law claims. *See* 28 U.S.C. § 1367(c)(3).

Finally, venue is improper in this District, as none of the events giving rise to the claim occurred here, nor is the property at issue located in Washington, D.C. *See* 28 U.S.C. § 1391(b).

Transfer to a proper venue is not warranted as Plaintiff has failed to state any claim that would confer jurisdiction upon a federal court or any claim upon which relief can be granted.

For the foregoing reasons, Defendants' motions to dismiss are granted, ECF Nos. 10, 25. The Motion to Strike Plaintiff's Notice of Unclean Hands, ECF No. 24, is denied as moot. The following motions are denied: (1) Plaintiff's Motion for Permanent Injunction, ECF No. 2; (2) Formal Notice and Demand to Correct the Caption, ECF No. 23; (3) Plaintiff's Motion to Strike the Defendant, the United States' Caption, Style, ECF No. 33; and (4) Plaintiff's Formal Request for a More Definite Statement, ECF No. 34. A final order accompanies this Memorandum Opinion.

Dated: July 28, 2020



Amit P. Mehta
United States District Court Judge

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BISHOP RUBEN DEWAYNE,

Plaintiff,

V.

THE UNITED STATES, et al.,

Defendants.

Case No. 20-cv-00515 (APM)


ORDER

For the reasons set forth in the court's Memorandum Opinion, ECF No. 37, the court grants in full Defendants' Motions to Dismiss, ECF Nos. 10, 25, and dismisses this case with prejudice.

The court denies as moot Defendants' Motion to Strike Plaintiff's Notice of Unclean Hands, ECF No. 24, and denies Plaintiff's Motion for Permanent Injunction, ECF No. 2, Plaintiff's Formal Notice and Demand to Correct the Caption, ECF No. 23, Plaintiff's Motion to Strike the Defendant, the United States' Caption, Style, ECF No. 33, and Plaintiff's Formal Request for a More Definite Statement, ECF No. 34.

This is a final, appealable order.

Dated: July 28, 2020


Amit P. Mehta
United States District Court Judge