

NO.  
IN THE  
**SUPREME COURT OF THE UNITED STATES**

---

ROSEE TORRES and NOEL TORRES,

*Petitioners*

VS.

WELLS FARGO BANK, N.A., a Calif. Corp., WELLS FARGO HOME MORTGAGE, INC., an Iowa Corp., INTERCOUNTY JUDICIAL SALES CORP., an Ill. Corp., Mr. CAPITOL GROUP, LLC a/k/a MR CAPITOL GROUP, LLC, MANLEY DEAS & KOCHALSKI, LLC, an Ohio Corp., JOEL KNOSHER & EDWARD PETERKA, Ind. & Agents of WELLS FARGO & MANLEY DEAS, ROBERT METZ, Ind. & Agent of Mr. CAPITOL GROUP, LLC.,

*Respondents*

---

**APPENDIX & EXHIBITS TO  
PETITION FOR WRIT OF CERTIORARI  
FROM SEVENTH CIRCUIT COURT OF APPEALS**

---

**ORAL ARGUMENT REQUESTED**

ROSEE TORRES and NOEL TORRES  
Appellants-Petitioners, Pro Se  
3546 West Beach Avenue  
Chicago, IL 60651  
1-773-384-9122

## INDEX TO APPENDICES

### 7<sup>th</sup> Circuit Court of Appeals, #21-1818

**APPENDIX 1:** *Forma Pauperis & Declaration re Rosee Torres and Noel Torres*

**APPENDIX A:** AFFIRMED JUDGMENT RE MOTION FOR REHEARING w/COSTS: 12-15-2021 & MANDATE OF 12-23-2021 (APP. A & B) (DOC. #29, 30)

**APPENDIX B:** ORDER: PETITION FOR REHEARING DENIED: 12-15-2021 (DOC. #32,30)

**APPENDIX C:** FINAL JUDGMENT W/SANCTIONS/COSTS – 11-29-2021 (DOC. #30)

**APPENDIX D:** MOTION TO STAY EVICTION, DENIED – 11-05-2021 (DOC. #27)

**APPENDIX E:** ORDER: MOTION FOR RECONSIDERATION DENIED , 04-26-2021 (Doc. 1,EX.1)

**APPENDIX F:** MOTION TO EXTEND PAGES – DENIED 06-23-2021 (Doc. 15)

### U. S. District Court – Northern District

**APPENDIX G:** JUDGMENT IN A CIVIL CASE, MEMORANDUM & OPINION; TORRES' COMPLAINT DISMISSED #20-cv-04138 – Judge Mary Rowland, 03-30-2021 (Doc. #1, EX. 2); (Doc. 62, 63)

**APPENDIX H:** TORRES' MOTION FOR RE-HEARING/RECONSIDERATION, DENIED, 04-26-2021 \*\*  
Judge Mary Rowland: (Doc. 1, EX. 1). ( APPEAL FILED

### Illinois Supreme Court - #126393

**APPENDIX I:** TORRES' PETITION FOR LEAVE TO APPEAL, DENIED, 11-18-2020

**APPENDIX J:** TORRES' MOTION FOR RECONSIDERATION, DENIED, 02-09-2021

### Illinois Appellate Court – 1<sup>st</sup> District #19-1718

**APPENDIX K-1:** *WELLS FARGO BANK, N.A. V. ROSEE & NOEL TORRES';* Torres' MOTION For RELIEF OF FINAL JUDGMENT & SANCTIONS, REHEARING, DENIED, 06-30-2020; (Justices McBride, Howse & Ellis)

**APPENDIX K-2:** Appellate Court Decides Case without Oral Argument, June 29, 2020;  
Appellate Court recalls Mandate re 19-1718 (Justices McBride, Howse & Ellis)

**Circuit Court of Cook County, Illinois –Chancery -#2016-ch-05738**

**APPENDIX L:** **WELLS FARGO BANK, N.A. V. ROSEE & NOEL TORRES, SUMMARY JUDGMENT & SALE OF 3546 WEST BEACH,,** Judge Wm. B. Sullivan, Cook County Circuit Court, Chancery, 02-26-2018: 2016 ch-5738 (Doc. #1, EX. 7)

**APPENDIX M:** **WELLS FARGO BANK, N.A. V. ROSEE & NOEL TORRES:** Torres' Counter-Claim & Jury Demand Stricken with Prejudice, Denied; Torres' Response Denied; Judge Wm. Sullivan, 2016-ch-5738

**APPENDIX N:** **TORRES SECTION 2-1401 PETITION, DENIED,** Judge Sullivan 07-22-2019 (Attorney Geoffrey Pipoly of Mayer Brown, LLC., Not Attorney of Record, No Appearance filed re 2016-CH-05738 )

**Other**

**APPENDIX O:** **In re Wachovia, USDC – California; 5:09-md-02015-jf: 05-17-2011 Judgement, Dismissed with Prejudice (Torres & Wells Fargo parties)** (Doc. 1, EX. 11)

**APPENDIX P:** **TORRES V. WELLS FARGO BANK, N.A., ET AL, USDC-ND Dismissed with Prejudice, Agreement by Parties: 2013-cv-5544, 11-15-2015, Doc. 1, EX. 12**

**APPENDIX Q-1:** **Release re Settlement – Rosee Torres & World Savings, 11-04-2004 & Settlement (Doc.#1, EX. 13); Settlement Check – \$29,421.63 (+\$579 cash as as Down Payment on Torres Mortgage Applications for 3542 West Beach & 3550 West Beach, Mortgage Denied (To Be Applied to Torres IRA Account???)**

**APPENDIX Q-2:** **Satisfaction: World Savings/Golden West Savings, Trustee & Rosee Torres, 03-01-2007 filed with 2016 CH 05738**

**APPENDIX Q-3:** **Certificate of Release: World Savings & Rosee Torres, 04-12-2007**

**APPENDIX R:** **TORRES V. JUDICIAL SALES CORP., #19-CV-00112 Dismissed without Prejudice 04-05-2019; Judge Andrea Wood**

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
[www.ca7.uscourts.gov](http://www.ca7.uscourts.gov)

FINAL JUDGMENT

November 29, 2021

*Before*

MICHAEL B. BRENNAN, *Circuit Judge*  
AMY J. ST. EVE, *Circuit Judge*  
CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 21-1818	ROSEE TORRES and NOEL TORRES, Plaintiffs - Appellants  v.  WELLS FARGO BANK, N.A., et al., Defendants - Appellees
<b>Originating Case Information:</b>	
District Court No: 1:20-cv-04138	
Northern District of Illinois, Eastern Division	
District Judge Mary M. Rowland	

The judgment of the District Court is **AFFIRMED**, with costs, in accordance with the decision of this court entered on this date.

form name: c7\_FinalJudgment (form ID: 132)

**APP. A**

**NONPRECEDENTIAL DISPOSITION**  
To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals**  
For the Seventh Circuit  
Chicago, Illinois 60604

Submitted November 23, 2021\*  
Decided November 29, 2021

*Before*

MICHAEL B. BRENNAN, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

Nos. 21-1818

ROSEE TORRES and NOEL TORRES,  
*Plaintiffs-Appellants,*

Appeal from the United States District Court  
for the Northern District of Illinois,  
Eastern Division.

*v.*

No. 20-cv-04138

WELLS FARGO BANK, N.A., et al.,  
*Defendants-Appellees.*

Mary M. Rowland,  
*Judge.*

**O R D E R**

Since Wells Fargo Bank, N.A., foreclosed on their home, Rosee and Noel Torres have sued the bank and other related parties in both state and federal court for fraud, conspiracy, and violations of their federal civil rights, among other claims. Twice, the

---

\* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

district court dismissed the Torreses' suits under the *Rooker-Feldman* doctrine. The Torreses filed a third federal suit that alleged essentially the same facts as their prior suits except for one new claim over the nature of the remedy sought. The court this time dismissed the complaint under the doctrine of res judicata, concluding that their claims arose out of the same nucleus of facts. We affirm.

As set forth in their complaint, the Torreses applied for a mortgage to buy two properties adjacent to their home on Chicago's northwest side. The Torreses, a married African American and Latino couple, alleged that their application was rejected for discriminatory reasons—a dispute that they settled with the mortgage company in exchange for a cash payment. They had hoped to apply the settlement funds towards the purchase of the adjacent properties, but assert that they were unable to do so because Wells Fargo—which had bought the mortgage company—used information from their application to generate a fraudulent mortgage note on their primary home.

Extensive state-court litigation ensued. In 2013, the Torreses brought a wide-ranging complaint against Wells Fargo and related defendants, asserting breach of contract, deceptive practices, fraud, racial discrimination, and violations of the Fair Debt Practices Collection Act, among other causes of action. The Torreses later dismissed that action voluntarily. *See Torres v. Wells Fargo Home Mortg.*, No. 13-cv-05542 (N.D. Ill. Nov. 2, 2015). In 2016, Wells Fargo sued in state court to foreclose on the Torreses' mortgage and eventually obtained a judgment of foreclosure and sale. Their home in turn was sold. Later state-court appeals filed by the Torreses were unsuccessful. *See Wells Fargo Bank v. Torres*, No. 1-19-1718 (Ill. App. Ct. June 30, 2020). The state appellate court then sanctioned the Torreses for appealing in bad faith and ordered them to pay Wells Fargo's litigation fees.

Meanwhile, the Torreses turned to federal court and initiated the first of several actions asserting that Wells Fargo had schemed to foreclose on their home using a fraudulent note based on confidential records. In January 2019, they sued Wells Fargo and other parties involved in the foreclosure and sale of their home, raising a litany of claims, including conspiracy, fraud, discrimination, and violations of civil rights laws and the Fair Debt Practices Collection Act. The Torreses sought both an injunction halting the sale of the home and monetary damages; of significance for this appeal, they did not seek damages related to their inability to purchase the adjacent properties. *See Torres v. Judicial Sales Corp.*, No. 19-cv-00112 (N.D. Ill. Apr. 5, 2019). The district court (District Judge Wood) dismissed the case sua sponte for lack of jurisdiction under the *Rooker-Feldman* doctrine. *See Torres v. Judicial Sales Corp.*, No. 19-cv-00112 (N.D. Ill.

Apr. 5, 2019) (citing *Rooker v. Fidelity Tr. Co.*, 263 U.S. 413, 415–16 (1923), and *District of Columbia Ct. App. v. Feldman*, 460 U.S. 462, 482–86 (1983)). The court determined that the Torreses’ claim to request “recovery of their home” was essentially an attack on the state court’s judgment of foreclosure. We affirmed. *See Torres v. Judicial Sales Corp.*, No. 19-1657 (7th Cir. Jan. 27, 2020).

While that appeal was pending, the Torreses filed their second federal suit, reprising claims from their recently dismissed suit. *Torres v. Metz*, No. 19-cv-06526 (N.D. Ill. Apr. 27, 2020). This time, however, they sued only the company that purchased their home (a defendant in the prior federal suit) and its attorney. The district court (District Judge Chang) dismissed this suit too under *Rooker-Feldman*, explaining that the Torreses’ claims made clear that the injuries for which they sought relief arose from the state court’s foreclosure judgment.

Three months later, the Torreses returned to federal court and filed the complaint that underlies this appeal. They raised essentially the same claims against the same defendants from their prior federal suits, though this time they sought damages only for loss of the opportunity to buy the neighboring properties. The district court (District Judge Rowland) found that these claims were barred by the doctrine of res judicata because they arose out of the same core of operative facts as their two prior federal actions. The court explained that the Torreses’ allegations were “fundamentally connected” to the fraud and discriminations claims that had already been litigated, and the Torreses could have brought all their claims in their 2019 federal complaint.

On appeal, the Torreses do not engage with the district court’s decision to apply res judicata. Instead, they continue to assert charges of fraud and other wrongdoing with regard to the state’s foreclosure proceedings. They maintain, for instance, that Wells Fargo’s filing of “fraudulent documents” as the basis for its foreclosure action prevented the state court’s foreclosure judgment from ever becoming final.

When determining whether res judicata applies, we look to the law of the state that rendered the judgment. *See Robbins v. MED-1 Sols., LLC*, 13 F.4th 652, 656 (7th Cir. 2021) (citing 28 U.S.C. § 1738). In Illinois, res judicata requires a final judgment on the merits, rendered by a court of competent jurisdiction, on the same cause of action involving the same parties or their “privies.” *See A & R Janitorial v. Pepper Constr. Co.*, 124 N.E.3d 962, 966 (Ill. 2018).

Only the “same cause of action” element is disputed here. The Torreses argue this action raises a new claim with regard to the loss of their opportunity to buy the neighboring properties—rather than for the loss of their home itself. But as the district court correctly concluded, res judicata bars all claims that arise from the same core of operative facts, regardless of whether later suits assert different legal theories. *See White v. Ill. State Police*, 15 F.4th 801, 809 (7th Cir. 2021). The test stems from the rule that a party must allege in one proceeding all claims for relief arising out of a single occurrence, or be precluded from pursuing them in the future. *Bernstein v. Bankert*, 733 F.3d 190, 227 (7th Cir. 2013); *see also Nalco Co. v. Chen*, 843 F.3d 670, 674 (7th Cir. 2016) (citing Restatement (Second) of Judgments § 24 (1982)). In any event, the Torreses did, in fact, allege that the defendants “canceled the original application for the purchase” of the neighboring properties in both of their prior federal complaints, so they may not now seek remedies or forms of relief not demanded in the first action. *Id.*

The defendants offer collateral estoppel as an alternative ground for affirmance. We need not consider this argument because res judicata already bars the Torreses’ claims.

Finally, we note that this is the Torreses’ fourth appeal before this court seeking relief from their foreclosure. *See* Nos. 18-3686, 19-1657, 19-2114. We warn them that further attempts to relitigate this matter may result in the imposition of sanctions, the nonpayment of which could lead to a filing bar under *Support Sys. Int’l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995).

AFFIRMED

NOTICE REGARDING COSTS

**United States Court of Appeals**

For the Seventh Circuit

**Fed. R. App. Proc. 39. Costs**

**(a) Against Whom Assessed.** The following rules apply unless the law provides or the court orders otherwise:

- (1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;
- (2) if a judgment is affirmed, costs are taxed against the appellant;
- (3) if a judgment is reversed, costs are taxed against the appellee;
- (4) if a judgment is affirmed in part, reversed in part, modified, or vacated, costs are taxed only as the court orders.

**(b) Costs For and Against the United States.** Costs for or against the United States, its agency, or officer will be assessed under Rule 39(a) only if authorized by law.

**(c) Costs of Copies.** Each court of appeals must, by local rule, fix the maximum rate for taxing the cost of producing necessary copies of a brief or appendix, or copies of records authorized by Rule 30(f). The rate must not exceed that generally charged for such work in the area where the clerk's office is located and should encourage economical methods of copying.

**(d) Bill of Costs; Objections; Insertion in Mandate.**

(1) A party who wants costs taxed must – within 14 days after entry of judgment – file with the circuit clerk, with proof of service, an itemized and verified bill of costs.

(2) Objections must be filed within 14 days after service of the bill of costs, unless the court extends the time.

(3) The clerk must prepare and certify an itemized statement of costs for insertion in the mandate, but issuance of the mandate must not be delayed for taxing costs. If the mandate issues before costs are finally determined, the district clerk must – upon the circuit clerk's request – add the statement of costs, or any amendment of it, to the mandate.

**(e) Costs on Appeal Taxable in the District Court.** The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs under this rule:

- (1) the preparation and transmission of the record;
- (2) the reporter's transcript, if needed to determine the appeal;
- (3) premiums paid for a supersedeas bond or other bond to preserve rights pending appeal; and
- (4) the fee for filing the notice of appeal.

**Circuit Rule 39. Costs of Printing Briefs and Appendices**

The cost of printing or otherwise producing copies of briefs and appendices shall not exceed the maximum rate per page as established by the clerk of the court of appeals. If a commercial printing process has been used, a copy of the bill must be attached to the itemized and verified bill of costs filed and served by the party.

---

**NOTE:** If costs of printing or otherwise producing required documents are to be recoverable, copies of applicable printing bills must be attached to the bill of costs. An original and three copies of a bill of costs are required. Recovery for the costs of office overhead items, mailing, and authors' alterations will **NOT** be allowed.

**MAXIMUM RATES PER PAGE:** For cost of reproduction, whether prepared commercially or "in-house" – **\$0.10** per page, per copy, plus reasonable charges for covers and binding.

(120109JR)

United States Court of Appeals  
For the Seventh Circuit  
Chicago, Illinois 60604

December 15, 2021

Before

MICHAEL B. BRENNAN, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 21-1818

ROSEE TORRES and NOEL TORRES,  
*Plaintiffs-Appellants,*

Appeal from the United States District  
Court for the Northern District of Illinois,  
Eastern Division.

v.

WELLS FARGO BANK, N.A., et al.,  
*Defendants-Appellees.*

No. 1:20-cv-04138

Mary M. Rowland,  
*Judge.*

ORDER

On consideration of the petition for rehearing, the judges on the original panel  
have voted to deny rehearing. It is, therefore, ORDERED that the petition for rehearing  
is DENIED.

APP. B

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
[www.ca7.uscourts.gov](http://www.ca7.uscourts.gov)

FINAL JUDGMENT

November 29, 2021

*Before*

MICHAEL B. BRENNAN, *Circuit Judge*  
AMY J. ST. EVE, *Circuit Judge*  
CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 21-1818	ROSEE TORRES and NOEL TORRES, Plaintiffs - Appellants  v.  WELLS FARGO BANK, N.A., et al., Defendants - Appellees
<b>Originating Case Information:</b> District Court No: 1:20-cv-04138 Northern District of Illinois, Eastern Division District Judge Mary M. Rowland	

The judgment of the District Court is **AFFIRMED**, with costs, in accordance with the decision of this court entered on this date.

form name: c7\_FinalJudgment (form ID: 132)

32-30

APP. C

**NONPRECEDENTIAL DISPOSITION**  
To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals**  
For the Seventh Circuit  
Chicago, Illinois 60604

Submitted November 23, 2021\*  
Decided November 29, 2021

*Before*

MICHAEL B. BRENNAN, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

Nos. 21-1818

ROSEE TORRES and NOEL TORRES,  
*Plaintiffs-Appellants,*

Appeal from the United States District Court  
for the Northern District of Illinois,  
Eastern Division.

*v.*

No. 20-cv-04138

WELLS FARGO BANK, N.A., et al.,  
*Defendants-Appellees.*

Mary M. Rowland,  
*Judge.*

**ORDER**

Since Wells Fargo Bank, N.A., foreclosed on their home, Rosee and Noel Torres have sued the bank and other related parties in both state and federal court for fraud, conspiracy, and violations of their federal civil rights, among other claims. Twice, the

---

\* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

district court dismissed the Torreses' suits under the *Rooker-Feldman* doctrine. The Torreses filed a third federal suit that alleged essentially the same facts as their prior suits except for one new claim over the nature of the remedy sought. The court this time dismissed the complaint under the doctrine of res judicata, concluding that their claims arose out of the same nucleus of facts. We affirm.

As set forth in their complaint, the Torreses applied for a mortgage to buy two properties adjacent to their home on Chicago's northwest side. The Torreses, a married African American and Latino couple, alleged that their application was rejected for discriminatory reasons—a dispute that they settled with the mortgage company in exchange for a cash payment. They had hoped to apply the settlement funds towards the purchase of the adjacent properties, but assert that they were unable to do so because Wells Fargo—which had bought the mortgage company—used information from their application to generate a fraudulent mortgage note on their primary home.

Extensive state-court litigation ensued. In 2013, the Torreses brought a wide-ranging complaint against Wells Fargo and related defendants, asserting breach of contract, deceptive practices, fraud, racial discrimination, and violations of the Fair Debt Practices Collection Act, among other causes of action. The Torreses later dismissed that action voluntarily. *See Torres v. Wells Fargo Home Mortg.*, No. 13-cv-05542 (N.D. Ill. Nov. 2, 2015). In 2016, Wells Fargo sued in state court to foreclose on the Torreses' mortgage and eventually obtained a judgment of foreclosure and sale. Their home in turn was sold. Later state-court appeals filed by the Torreses were unsuccessful. *See Wells Fargo Bank v. Torres*, No. 1-19-1718 (Ill. App. Ct. June 30, 2020). The state appellate court then sanctioned the Torreses for appealing in bad faith and ordered them to pay Wells Fargo's litigation fees.

Meanwhile, the Torreses turned to federal court and initiated the first of several actions asserting that Wells Fargo had schemed to foreclose on their home using a fraudulent note based on confidential records. In January 2019, they sued Wells Fargo and other parties involved in the foreclosure and sale of their home, raising a litany of claims, including conspiracy, fraud, discrimination, and violations of civil rights laws and the Fair Debt Practices Collection Act. The Torreses sought both an injunction halting the sale of the home and monetary damages; of significance for this appeal, they did not seek damages related to their inability to purchase the adjacent properties. *See Torres v. Judicial Sales Corp.*, No. 19-cv-00112 (N.D. Ill. Apr. 5, 2019). The district court (District Judge Wood) dismissed the case sua sponte for lack of jurisdiction under the *Rooker-Feldman* doctrine. *See Torres v. Judicial Sales Corp.*, No. 19-cv-00112 (N.D. Ill.

Apr. 5, 2019) (citing *Rooker v. Fidelity Tr. Co.*, 263 U.S. 413, 415–16 (1923), and *District of Columbia Ct. App. v. Feldman*, 460 U.S. 462, 482–86 (1983)). The court determined that the Torreses’ claim to request “recovery of their home” was essentially an attack on the state court’s judgment of foreclosure. We affirmed. *See Torres v. Judicial Sales Corp.*, No. 19-1657 (7th Cir. Jan. 27, 2020).

While that appeal was pending, the Torreses filed their second federal suit, reprising claims from their recently dismissed suit. *Torres v. Metz*, No. 19-cv-06526 (N.D. Ill. Apr. 27, 2020). This time, however, they sued only the company that purchased their home (a defendant in the prior federal suit) and its attorney. The district court (District Judge Chang) dismissed this suit too under *Rooker-Feldman*, explaining that the Torreses’ claims made clear that the injuries for which they sought relief arose from the state court’s foreclosure judgment.

Three months later, the Torreses returned to federal court and filed the complaint that underlies this appeal. They raised essentially the same claims against the same defendants from their prior federal suits, though this time they sought damages only for loss of the opportunity to buy the neighboring properties. The district court (District Judge Rowland) found that these claims were barred by the doctrine of res judicata because they arose out of the same core of operative facts as their two prior federal actions. The court explained that the Torreses’ allegations were “fundamentally connected” to the fraud and discriminations claims that had already been litigated, and the Torreses could have brought all their claims in their 2019 federal complaint.

On appeal, the Torreses do not engage with the district court’s decision to apply res judicata. Instead, they continue to assert charges of fraud and other wrongdoing with regard to the state’s foreclosure proceedings. They maintain, for instance, that Wells Fargo’s filing of “fraudulent documents” as the basis for its foreclosure action prevented the state court’s foreclosure judgment from ever becoming final.

When determining whether res judicata applies, we look to the law of the state that rendered the judgment. *See Robbins v. MED-1 Sols., LLC*, 13 F.4th 652, 656 (7th Cir. 2021) (citing 28 U.S.C. § 1738). In Illinois, res judicata requires a final judgment on the merits, rendered by a court of competent jurisdiction, on the same cause of action involving the same parties or their “privies.” *See A & R Janitorial v. Pepper Constr. Co.*, 124 N.E.3d 962, 966 (Ill. 2018).

Only the “same cause of action” element is disputed here. The Torreses argue this action raises a new claim with regard to the loss of their opportunity to buy the neighboring properties—rather than for the loss of their home itself. But as the district court correctly concluded, res judicata bars all claims that arise from the same core of operative facts, regardless of whether later suits assert different legal theories. *See White v. Ill. State Police*, 15 F.4th 801, 809 (7th Cir. 2021). The test stems from the rule that a party must allege in one proceeding all claims for relief arising out of a single occurrence, or be precluded from pursuing them in the future. *Bernstein v. Bankert*, 733 F.3d 190, 227 (7th Cir. 2013); *see also Nalco Co. v. Chen*, 843 F.3d 670, 674 (7th Cir. 2016) (citing Restatement (Second) of Judgments § 24 (1982)). In any event, the Torreses did, in fact, allege that the defendants “canceled the original application for the purchase” of the neighboring properties in both of their prior federal complaints, so they may not now seek remedies or forms of relief not demanded in the first action. *Id.*

The defendants offer collateral estoppel as an alternative ground for affirmance. We need not consider this argument because res judicata already bars the Torreses’ claims.

Finally, we note that this is the Torreses’ fourth appeal before this court seeking relief from their foreclosure. *See* Nos. 18-3686, 19-1657, 19-2114. We warn them that further attempts to relitigate this matter may result in the imposition of sanctions, the nonpayment of which could lead to a filing bar under *Support Sys. Int’l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995).

AFFIRMED

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
[www.ca7.uscourts.gov](http://www.ca7.uscourts.gov)

ORDER

November 5, 2021

*By the Court:*

No. 21-1818	ROSEE TORRES and NOEL TORRES, Plaintiffs - Appellants  v.  WELLS FARGO BANK, N.A., et al., Defendants - Appellees
<b>Plaintiff Case Information</b>	
District Court No: 1:20-cv-04138	
Northern District of Illinois, Eastern Division	
District Judge Mary M. Rowland	

Upon consideration of the **APPELLANTS TORRES' MOTION FOR STAY OF EVICTION PENDING APPEAL**, filed on November 4, 2021, by the pro se appellants,

**IT IS ORDERED** that the motion is **DENIED**.

**APP. D**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ROSEE TORRES AND NOEL  
TORRES,

Plaintiffs,

v.

WELLS FARGO BANK, N.A., et al.,

Defendants.

Case No. 20-cv-04138

Judge Mary M. Rowland

**ORDER**

Plaintiffs Rosee and Noel Torres' Motion for Reconsideration [64] of the Court's Memorandum Opinion and Order dismissing their case is DENIED.

A motion to reconsider is appropriate only in limited circumstances and the movant must establish a manifest error of law or fact or present newly discovered evidence. "A party moving for reconsideration bears a heavy burden." *Saccameno v. Ocwen Loan Servicing, LLC*, 2018 U.S. Dist. LEXIS 38793, at \*5 (N.D. Ill. Mar. 9, 2018) (internal citations and quotations omitted). "A manifest error is not demonstrated by the disappointment of the losing party. It is the wholesale disregard, misapplication, or failure to recognize controlling precedent." *Oto v. Metro. Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) (internal citations and quotations omitted).

In their Motion, the plaintiffs identify several supposed errors in the Opinion. As the Court stated in its Opinion, it is bound to accept the plaintiffs' allegations as true at the motion to dismiss stage. The plaintiffs' Complaint and briefings were also, at times, hard to follow, and so the Court concedes that there may be minor errors in its statement of the facts. The issues identified by the Torres family, however, are either unrelated to the

analysis (the plaintiffs' precise racial background, Dkt. 64 at 3 ¶ a); misreadings of the Opinion (contrary to their characterization, the Opinion states that the allegedly stolen down payments were for the neighboring properties, *Id.* at 3 ¶ b); factually incorrect themselves (despite stating otherwise here, the plaintiffs 2019 case does not discuss the neighboring properties, *Id.* at 5 ¶ f); or simply restatements of their previous legal and factual arguments. *Id.* at 3-5 ¶¶ c-e. The factual issues identified do not amount to a manifest error.

The plaintiffs also take issue with the Court's legal analysis. Most significantly, they assert that res judicata cannot bar their claim because this lawsuit is about the neighboring properties, not the foreclosure of their home. They go on to state that the Court failed to consider a variety of claims related to their inability to purchase the neighboring properties.

However, the Court already considered, and rejected, the claim that the new lawsuit was not barred because it focused on the neighboring properties. Dkt. 62 at 5-6. Mere disagreement is not a manifest error. Similarly, the Opinion also addressed the plaintiffs' argument that they were barred from bringing its claims earlier by a contract with Wells Fargo. *Id.* at 6 n.4. The plaintiffs' assertions that the Court failed to understand or properly address their arguments do not amount to evidence of a "wholesale disregard, misapplication, or failure to recognize controlling precedent."

The plaintiffs have not identified a manifest error in the Court's Opinion. As a result, the plaintiffs' Motion to Reconsider is denied.

## CONCLUSION

Plaintiffs Rosee and Noel Torres' Motion for Reconsideration [64] of the Court's Memorandum Opinion and Order dismissing their case is DENIED. The Clerk of the Court shall mail a copy of this order to the plaintiff.

E N T E R:

Dated: April 26, 2021



---

MARY M. ROWLAND  
United States District Judge

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen  
United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
[www.ca7.uscourts.gov](http://www.ca7.uscourts.gov)

**ORDER**

June 23, 2021

Before

AMY J. ST. EVE, *Circuit Judge*

No. 21-1818	ROSEE TORRES and NOEL TORRES, Plaintiffs - Appellants  v.  WELLS FARGO BANK, N.A., et al., Defendants - Appellees
<b>Originating Case Information:</b>	
District Court No: 1:20-cv-04138	
Northern District of Illinois, Eastern Division	
District Judge Mary M. Rowland	

Upon consideration of the **MOTION TO EXTEND PAGES OF BRIE & APPENDIX**, filed on June 22, 2021, by the pro se appellant,

**IT IS ORDERED** that the motion is **DENIED**. Appellants may file a principal brief that contains no more than 14,000 words. CIR. R. 32(c). There is no limit on the size of an appendix, except that the appendix bound with the brief must comply with Circuit Rule 30(a)(7).

**APP. F**

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF ILLINOIS

Rosee Torres and Noel Torres,

Plaintiff(s),

v.

Wells Fargo Bank, N.A., Wells Fargo Home Mortgage, Inc., Intercounty Judicial Sales Corp., MR Capital Group, LLC, Manley Deas Kochalski, LLC, Joel Knosher, Edward Peterka, and Robert Metz,

Defendant(s).

Case No. 20-cv-04138  
Judge Mary M. Rowland

**JUDGMENT IN A CIVIL CASE**

Judgment is hereby entered (check appropriate box):

in favor of plaintiff(s)  
and against defendant(s)  
in the amount of \$ ,

which  includes pre-judgment interest.  
 does not include pre-judgment interest.

Post-judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

---

in favor of defendant(s) Wells Fargo Bank, N.A., Wells Fargo Home Mortgage, Inc., Intercounty Judicial Sales Corp., MR Capital Group, LLC, Manley Deas Kochalski, LLC, Joel Knosher, Edward Peterka, and Robert Metz  
and against plaintiff(s) Rosee Torres and Noel Torres.  
Defendant(s) shall recover costs from plaintiff(s).

---

other:

This action was (check one):

tried by a jury with Judge Mary M. Rowland presiding, and the jury has rendered a verdict.  
 tried by Judge Mary M. Rowland without a jury and the above decision was reached.  
 decided by Judge Mary M. Rowland on a motion to dismiss.

Date: 3/30/2021

Thomas G. Bruton, Clerk of Court

Dawn A. Moreno, Deputy Clerk

APP C

#62

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ROSEE TORRES AND NOEL  
TORRES,

Plaintiffs,

Case No. 20-cv-04138

v.

Judge Mary M. Rowland

WELLS FARGO BANK, N.A., et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Plaintiffs Rosee and Noel Torres bring this action against Wells Fargo Bank, N.A.; Wells Fargo Home Mortgage, Inc.; Intercounty Judicial Sales Corp.; MR Capital Group, LLC; Manley Deas Kochalski, LLC; Joel Knosher; Edward Peterka; and Robert Metz alleging a variety of federal and state law violations related to property in which the couple had an interest. The defendants have filed Motions to Dismiss. For reasons stated herein, the defendants' Motions to Dismiss [16, 18, 35, 45, 55] are granted. All counts are dismissed with prejudice. The Plaintiffs have also filed a Motion to Strike the defendants' motions. This Motion to Strike [61] is denied as to all defendants.

**I. Background**

The following factual allegations are taken from the Complaint (Dkt. 1) and are accepted as true for the purposes of the motion to dismiss. *See W. Bend Mut. Ins. Co. v. Schumacher*, 844 F.3d 670, 675 (7th Cir. 2016). The pro se Complaint is difficult to understand, and this section seeks to articulate the plaintiffs' allegations clearly and

APP. G

provide necessary context. The Court is conscious that a “document filed pro se is ‘to be liberally construed,’ and ‘a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)).

Rosee and Noel Torres are a married African American and Hispanic couple who live in Chicago. Dkt. 1 at 2. Wells Fargo is a national bank. *Id.* MDK and its attorneys represented Wells Fargo in the foreclosure and sale of the Torres’ home, 3546 West Beach Avenue, in 2018 and 2019. *Id.*

The couple bring a variety of claims against the defendants under federal and state law, including alleged violation of RICO, the civil rights acts, and state contract law. *Id.* at 7, 8, 11. In all counts brought, they allege that the defendants’ actions improperly caused: 1) the loss of their home at 3546 West Beach Avenue; 2) the loss of their ability to purchase the homes at 3542 and 3550 West Beach Avenues (the “neighboring properties”); and 3) the loss of their down payments on those properties. *Id.* They also allege other, derivative harms. *Id.*

In 2004, the Torres couple sought to purchase the properties neighboring their home. *Id.* at 3. They applied for a mortgage with a company called World Savings, but their application was rejected due to the company’s discriminatory policies. *Id.* at 3. Eventually, World Savings agreed to settle the dispute. *Id.* The money from the settlement was to go towards the purchase of the neighboring properties. *Id.* Apparently, the purchase never took place. The Complaint does not explain how the

defendants allegedly prevented the couple from purchasing the neighboring properties.

Meanwhile, World Savings' parent company was purchased by Wells Fargo in 2010. *Id.* at 4. The Torres couple owned their home in full, with no outstanding mortgages. *Id.* Wells Fargo, however, had gained access to the information and unexecuted forms that they had submitted to World Savings when applying for mortgages for the neighboring properties. *Id.* at 2, 4. Wells Fargo then used this material to create a fraudulent mortgage note on the Torres' home. *Id.* In 2016, Wells Fargo used this fraudulent note to bring a foreclosure action on the Torres' home in the Circuit Court of Cook County. *Id.* at 4. The state court granted summary judgement to Wells Fargo and the property was sold at auction in 2019. *Id.* The plaintiffs subsequently learned that Wells Fargo's actions were taken as part of its policy of preventing non-white people from owning property in the neighborhood. *Id.* at 6.

In 2019, the Torres couple brought suit in federal court. *Torres v. Judicial Sales Corp., et al.*, case no. 19-cv-00112.<sup>1</sup> That case involved all the same parties as the instant case.<sup>2</sup> In it, they alleged the same scheme by Wells Fargo to foreclose on their home using a fraudulent note based on confidential records. Court Order, 19-cv-00112 Dkt. 23 at 1. The complaint contained very similar counts for relief as the instant

---

<sup>1</sup> Despite the close factual similarities between the instant case and the 2019 one, the plaintiffs failed to note it in their cover sheet. Dkt. 2.

<sup>2</sup> The one exception is the inclusion of Robert Metz in the present lawsuit. As will be seen, however, Metz was named in another, similar lawsuit the plaintiffs subsequently filed in federal court.

case and it requested relief from the foreclosure judgement and monetary damages. Complaint, 19-cv-00112 Dkt. 1. It did not, however, request damages related to the inability to purchase the neighboring properties.

In April 2019, the court dismissed the case *sua sponte* for lack of jurisdiction. Court Order, 19-cv-00112 Dkt. 23 at 1. It found that the plaintiffs' claims were barred by the *Rooker-Feldman* doctrine, which prevents federal courts from reviewing state court judgements. *Id.* at 2. The court found that all of the counts were "inextricably intertwined" with the state court judgement, depriving the federal court of jurisdiction. On appeal, the Seventh Circuit affirmed the district court's decision. *Torres v. Judicial Sales Corp.*, 19-1657.

While that case was pending before the Seventh Circuit, the plaintiffs filed another lawsuit in federal district court against MR Capital and Metz. Complaint, 19-cv-06526 Dkt. 1. That case was "basically a reprise" of their previous federal case, dealing with the same factual allegations. Court Order, 19-cv-06526 Dkt. 31 at 1. It too was dismissed on the basis of the *Rooker-Feldman* doctrine. *Id.*

## II. Analysis

The plaintiffs' Complaint is barred by the principle of res judicata. Res judicata, also known as claim preclusion, "applies to bar a second suit in federal court when there exists: (1) an identity of the causes of actions; (2) an identity of the parties or their privies; and (3) a final judgment on the merits." *Bernstein v. Bankert*, 733 F.3d 190, 226 (7th Cir. 2013) (quoting *Kratville v. Runyon*, 90 F.3d 195, 197 (7th Cir. 1996)). The test for identity of causes of action "is whether the claims arise out of the

same set of operative facts or the same transaction.” *Id.* (quoting *Matrix IV, Inc. v. Am. Nat. Bank & Tr. Co. of Chicago*, 649 F.3d 539, 547 (7th Cir. 2011)). “Even if the two claims are based on different legal theories, the two claims are one for purposes of res judicata if they are based on the same, or nearly the same, factual allegations.” *Id.* at 226-27. This principle enforces “the rule that a party must allege in one proceeding all claims and/or counterclaims for relief arising out of a single occurrence, or be precluded from pursuing those claims in the future.” *Id.* at 227.

In this case, the Torres’ claims arise out of the same operative facts as in their two 2019 federal cases—the alleged scheme orchestrated by Wells Fargo to fraudulently foreclose on the couple’s home. The parties in the litigations are the same. And, because the 2019 cases were dismissed with prejudice, the previous cases reached a final judgement on the merits. *See Adams v. Lever Bros. Co.*, 874 F.2d 393, 394 (7th Cir. 1989).

In their Responses, the plaintiffs insist that the case is not barred because it raises a new claim—recovering for the loss of the neighboring properties. But as discussed above, the relevant question is not whether there is a new claim but whether that claim arises out of a new set of operative facts. *See Tartt v. Nw. Cnty. Hosp.*, 453 F.3d 817, 822 (7th Cir. 2006) (applying res judicata to dismiss a pro se litigant’s case when the litigant brought new claims based on the same factual allegations). Although the plaintiffs’ allegations about the neighboring properties are brief and unclear, the Complaint suggests that they are fundamentally connected to the fraud and discrimination allegations that have already been litigated. It was the Torres family’s

interest in the properties that allowed Wells Fargo to conduct its alleged fraud, and the fraudulent scheme apparently prevented the couple from completing the purchase. The Torres couple could have brought all their current claims in the first 2019 case without adding any new parties or sets of operative facts.<sup>3</sup> As a result, res judicata bars this case.

The Complainant is dismissed with prejudice. This is the third time in two years the plaintiffs have brought the same issues to the court. The plaintiffs also brought a factually similar case in 2013. *Torres v. Wells Fargo*, 2013 WL 4101270 (N.D. Ill.). Should the plaintiffs seek to bring another case relitigating the foreclosure, they may face sanctions. See F.R.C.P. 11(b).

The plaintiffs have also filed a Motion to Strike the defendants' Motions to Dismiss. Dkt. 61. The filing raises alleged technical issues with the defendants' Motions, such as a failure to include their handwritten signatures, and attempts to add claims like intentional infliction of emotional distress.<sup>4</sup> Objections to the lack of signatures lack merit and is not a basis to strike a pleading. And attempts to raise entirely new causes for relief, like intentional infliction of emotional distress, in a motion to strike is entirely improper. The Torres' Motion to Strike [61] is denied.

---

<sup>3</sup> In their Responses, the plaintiffs suggest that they did not bring the neighboring properties claim in the previous litigation because of an oral agreement with Wells Fargo, which the bank subsequently breached. While Wells Fargo's alleged breach may give rise to some other legal claim, it does not obviate the preclusive effect of res judicata on those brought in the Complaint.

<sup>4</sup> Although the Torres couple include new counts their Motion, they arise from the same operative facts and would also be barred by res judicata.

### III. Conclusion

For the stated reasons, the defendants' Motions to Dismiss [16, 18, 35, 45, 55] are granted. All counts are dismissed with prejudice. The Plaintiffs have also filed a Motion to Strike the defendants' motions. This Motion to Strike [61] is denied as to all defendants. Civil case terminated.

E N T E R:

Dated: March 30, 2021



---

MARY M. ROWLAND  
United States District Judge



**SUPREME COURT OF ILLINOIS**

SUPREME COURT BUILDING  
200 East Capitol Avenue  
SPRINGFIELD, ILLINOIS 62701-1721  
(217) 782-2035

Rosee Torres  
3546 West Beach Avenue  
Chicago IL 60651

FIRST DISTRICT OFFICE  
160 North LaSalle Street, 20th Floor  
Chicago, IL 60601-3103  
(312) 793-1332  
TDD: (312) 793-6185

November 18, 2020

In re: Wells Fargo Bank, N.A., respondent, v. Rosee Torres et al.,  
petitioners. Leave to appeal, Appellate Court, First District.  
126393

The Supreme Court today DENIED the Petition for Leave to Appeal in the above  
entitled cause.

The mandate of this Court will issue to the Appellate Court on 12/23/2020.

Very truly yours,

*Carolyn Taft Gosboll*

Clerk of the Supreme Court

**APP. I**



# SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING  
200 East Capitol Avenue  
SPRINGFIELD, ILLINOIS 62701-1721

CAROLYN TAFT GROSBOLL  
Clerk of the Court  
(217) 782-2035  
TDD: (217) 524-8132

February 09, 2021

FIRST DISTRICT OFFICE  
160 North LaSalle Street, 20th Floor  
Chicago, IL 60601-3103  
(312) 793-1332  
TDD: (312) 793-6185

Rosee Torres  
3546 West Beach Avenue  
Chicago, IL 60651

In re: Wells Fargo Bank, N.A. v. Torres  
126393

Today the following order was entered in the captioned case:

Motion by Petitioners, *pro se*, for leave to file a motion for reconsideration of the order denying petition for leave to appeal. Denied.

Order entered by the Court.

Very truly yours,

Clerk of the Supreme Court

cc: Mayer Brown LLP  
Noel Torres

APP. J

**NOTICE**  
The text of this order may  
be changed or corrected  
prior to the time for filing of  
a Petition for Rehearing or  
the disposition of the same.

2020 IL App (1st) 191718-U

THIRD DIVISION  
June 30, 2020

No. 1-19-1718

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

---

WELLS FARGO BANK, N.A.

) Appeal from  
 ) the Circuit Court  
 ) of Cook County

v.

)  
 ) 2016-CH-05738

ROSEE TORRES and NOEL TORRES,

) Honorable

Petitioners-Appellants.

) William B. Sullivan,  
 ) Judge Presiding

---

JUSTICE McBRIDE delivered the judgment of the court.  
Presiding Justice Ellis and Justice Howse concurred in the judgment.

O R D E R

¶ 1 *Held:* Trial court did not err in denying petition for relief from judgment where petition was factually deficient; appellee's motion for sanctions for filing frivolous motion in appellate court granted, and appellants' crossmotion for sanctions denied.

¶ 2 Rosee and Noel Torres appeal *pro se* from a circuit court order denying their section 2-1401 petition for relief from a final circuit court order confirming the judicial sale of real property in an underlying foreclosure case that had been initiated by Wells Fargo Bank. N.A (Wells Fargo). 735 ILCS 5/2-1401 (West 2016). Wells Fargo contended in the trial court, as it contends here, that *res judicata* barred consideration of the section 2-1401 petition, because the petitioners presented the same arguments in their fourth appeal from the underlying foreclosure. For the sake of

APP. K<sup>1</sup>

readability, we will be referring to Rosee and Noel Torres together as the singular Rosee Torres. Also pending before this court are cross-motions for sanctions. Wells Fargo's motion concerns Torres's motion to reconsider our order granting Wells Fargo's unopposed motion for additional time to file its appellate response brief. Wells Fargo seeks sanctions on grounds that the motion to reconsider, like virtually all of Torres's other filings, have been meritless, dilatory, and inflammatory. Torres's response/cross-motion asks us to sanction Wells Fargo for its conduct during the four years of litigation, which Torres characterizes as racial and ethnic discrimination, and "exploitation, threats, blackmail and extortion" in an ongoing attempt to "steal" the property.

¶ 3 The record indicates the following. Wells Fargo filed suit in April 2016, alleging that three years earlier, defendant Rosee Torres had defaulted on a \$206,000 mortgage loan she obtained in 2007 that was secured by property on West Beach Avenue in Chicago. The property was improved with a single-family home in which Rosee was residing with her husband, Noel. Wells Fargo named Noel as a defendant in order to terminate any homestead rights he had in the real estate. Wells Fargo attached loan documents bearing Rosee's signature as the borrower and Noel's signature as the "non-borrowing spouse" who had joined the security instrument "for the sole purpose of \*\*\* waiving any current or potential interest in the Property." The promissory note attached to the complaint showed that the original lender had been World Savings Bank and that the lender's rights had been transferred to one bank and then to another bank. (Wells Fargo indicates that the lender's rights were transferred due to a series of bank acquisitions.) More specifically, World Savings Bank had stamped the final page of Torres's promissory note with the statement: "Pay to the order of[.] without recourse[,] Wachovia Mortgage, FSB. F[ormerly] K[nown] A[s] World Savings Bank, FSB." The adjacent stamp stated: "Without recourse[.] pay

to the order of Wells Fargo Bank, N.A. successor by merger to Wachovia Mortgage, FSB, formerly known as World Savings Bank, FSB. The two stamps included the signatures of bank personnel.

¶4 In May 2016, Torres answered the foreclosure complaint with denials and affirmative defenses and filed a counter-complaint against Wells Fargo and its mortgage foreclosure counsel, Manley Deas Kochalski.

¶5 In the answer and affirmative defenses, Torres alleged “[t]here is no mortgage.” Torres contended Wells Fargo (1) relied on a mortgage and note that were “bogus, fictitious, fabricated and forged,” (2) “target[ed] Afro-Americans, Hispanics, the elderly and women to fabricate a foreclosure,” (3) refused to produce “copies of all original signed or initialed, dated, documents (including mortgage note) defendant(s) claimed to have signed,” and (4) engaged in debt collection efforts that were “harassment.”

¶6 In the counter-complaint, Torres again alleged that there was “no mortgage or loan with Wells Fargo and [Torres did] not owe them any money.” Torres contended that the bank and the attorneys brought false claims of foreclosure that were based on “identity theft” from the two predecessor banks and identity theft from Torres in the form of “opening a fake account for Torres in San Antonio, Texas where monies were sent, converted and/or embezzled, even though Torres was never at any closing.” The counterclaim also indicated funds had been “diverted back to bank agents and employees,” “[while] Torres received nothing.” In addition, there was no debt because “World Savings settled the mortgage dispute with Torres on November 15, 2004, years before Wells Fargo acquired World Savings, and at which time Torres executed a Release.” (We point out that Torres alleged that she released “the mortgage dispute” in 2004 and that the mortgage loan at issue was executed in 2007.) In addition to identity theft, forgery, conversion, embezzlement,

and theft. the counterclaim indicated Wells Fargo (1) committed blackmail and extortion, (2) violated federal and Illinois laws regarding interstate commerce, false advertising, civil rights, and consumer fraud and deceptive practices; (3) caused Rosee "mental anguish" and other injuries, such as the loss of her employment and an IRA fund; (4) "threatened \*\*\* arson if Torres did not surrender the property;" and (5) "threatened \*\*\* immigration and deportation if Torres did not cooperate and relinquish the property." Based on these allegations, Torres sought millions of dollars in damages and the deed to the real property.

¶ 7 Wells Fargo filed a motion to dismiss the counter-complaint on grounds that it duplicated a claim Torres filed three years earlier in federal court, *Torres v. Wells Fargo Home Mortgage*, No. 13-cv-05542 (N.D. Ill.) (the "2013 Federal Action"). Wells Fargo argued that because Torres had voluntarily dismissed the 2013 Federal Action with prejudice, *res judicata* barred relitigating those issues in State court in the pending counter-complaint. Wells Fargo argued in the alternative that the counter-complaint was conclusory.

¶ 8 In response, Torres again contended that there was "no loan or mortgage now and [Torres] NEVER had either with WELLS FARGO or its Predecessor/mergers, WORLD & WACHOVIA, and all such documentation(s) are fabricated, forgeries." In a supplemental response, Torres reiterated many previous arguments, such as that the loan documents were forgeries and subject to a "2004 release." In support, Torres attached correspondence that World Savings had written in 2007 stating that a release Torres signed "relieves World and its successors of any obligation or liability as to World Savings prior thereto, including [Torres's attempted purchase of additional properties on Beach Avenue], which were never finalized," and that a settlement check had been issued "as the above matters are closed and you were notified that you \*\*\* did not qualify for a

new mortgage due to your 2006 income."

¶ 9 In reply, Wells Fargo argued that *res judicata* prevented relitigation of issues raised in the 2013 Federal Action and that the counter-complaint was factually deficient.

¶ 10 The circuit court granted Wells Fargo's motion to dismiss the counter-complaint, with prejudice.

¶ 11 Torres then filed an appeal, which was assigned case number 1-16-3424, and asked the circuit court to stay the foreclosure action pending the appeal. The circuit court, however, denied the stay; the appellate court dismissed the appeal on March 2, 2017, as a premature appeal due to a lack of Rule 304(a) language (Ill. Sup. Ct. R. 304(a) (eff. Feb. 26, 2010) (regarding appeals from final judgments that do not dispose of the entire proceeding)); and the supreme court denied Torres's petition for leave to appeal and subsequent motion for reconsideration. This appeal was the first of Torres's five appeals.

¶ 12 During this time frame, as the foreclosure action continued, the circuit court denied Torres's amended motion to dismiss Wells Fargo's complaint. In that amended motion, Torres had reiterated many of the arguments that had already been rejected on the basis of *res judicata*, such as that the foreclosure was based on forged documents and that Wells Fargo violated numerous common laws, federal acts, and Illinois statutes regarding race, ethnicity, and consumer rights. The circuit court entered the order with prejudice. Torres appealed the order. This second appeal was docketed as case number 1-17-0521, however, it was dismissed for lack of jurisdiction by the appellate court on June 7, 2017.

¶ 13 Wells Fargo next filed a motion for summary judgment and a motion for judgment of foreclosure and sale. In the summary judgment motion, Wells Fargo pointed out that Torres's

answer did not create a material question of fact because Torres did not dispute that the mortgage was superior to Torres's interest in the property, and Torres offered mere denials rather than proof of timely payments. Wells Fargo tendered an affidavit from bank personnel indicating that Wells Fargo had obtained the promissory note at issue through a bank merger and indorsement and also provided business records showing that Torres stopped making payments on the note and owed a balance of \$305,629. Wells Fargo also filed "Merger Documents" consisting of correspondence and records it obtained from the United States Department of Treasury showing that World Savings had changed its name to Wachovia and that Wachovia had subsequently merged with and into Wells Fargo.

¶ 14 Torres filed a combined response to Wells Fargo's motions for summary judgment and foreclosure. Torres once again repeated many of the prior arguments, including: that Torres "NEVER had a mortgage with Wells Fargo;" that "[n]o mortgage exists," because "Torres and World Savings settled by Release \*\*\* [in] 2004," but the promissory note was nonetheless "paid for in full;" that *res judicata* barred Wells Fargo's foreclosure action because Torres had voluntarily dismissed her 2013 Federal Action; that Wells Fargo "lacks standing to file the fabricated foreclosure [because it is] not the holder of any original note. [and] is a mortgage servicer;" that the foreclosure is "based on fraud, forgery(ies), fabricated note(s); " that Wells Fargo violated various state and federal statutes; and that Torres was targeted for foreclosure by Wells Fargo because of race and ethnicity.

¶ 15 Torres also filed a 43-page "Motion for Declaratory Judgment And/Or To Transfer Case To Federal Court For Jury Trial. Dismiss Wells Fargo's Fabricated, Fraudulent Foreclosure Complaint. Vacate Dismissal of Counter-Complaint & Grant Leave to Amend." Torres made the

same arguments that had been raised in numerous previous filings, such as that Wells Fargo fabricated the mortgage and note; that there was no mortgage due to the alleged 2004 release; and that Torres was targeted for foreclosure due to race and ethnicity.

¶ 16 Wells Fargo replied in support of its motion for summary judgment that Torres had failed to provide a counter-affidavit refuting the bank's allegations and that all of Torres's renewed arguments (e.g., forgery, release, targeting on the basis of race and ethnicity, etc.) were barred by *res judicata* due to the 2013 Federal Action.

¶ 17 Torres filed a supplemental response repeating the same arguments of forgery, release, targeting, etc.

¶ 18 After a hearing on February 26, 2018, the circuit court entered summary judgment and a judgment of foreclosure and sale in favor of Wells Fargo, found that Torres owed \$309,719, and denied Torres's "Motion for Declaratory Judgment."

¶ 19 The next day, February 27, 2018, Torres appealed those orders. Torres's third appeal was docketed as case 1-18-0438, but dismissed by the appellate court for want of jurisdiction on April 5, 2018.

¶ 20 Nearly a year after the judgment of foreclosure, a judicial sale of the property to the highest bidder was conducted on January 4, 2019. On January 7, 2019, the highest bidder, MR Capital Group LLC (MR Capital), filed a motion to intervene in the proceedings and for the court to approve the report of sale and distribution.

¶ 21 On January 15, 2019, Torres filed a motion to deny MR Capital's motion and to "transfer to federal court." In this motion, Torres once again reiterated the previously-raised arguments, including that "Wells Fargo \*\*\* fraudulently fabricated the mortgage and foreclosure to obtain a

summary judgment by ID theft, forgery [and the creation of fake accounts in Torres's name(s)]; and the "Property is PAID IN FULL." Continuing in this vein, Torres added that the recent judicial sale was a "sham and fraud." Torres also contended the case should be transferred to the U.S. District Court for the Northern District of Illinois and consolidated there with case number I:19-cv-112, a new federal case in which Torres was suing MR Capital and Wells Fargo over the foreclosure (the "2019 Federal Action").

¶ 22 On February 7, 2019, MR Capital withdrew its motion, Wells Fargo filed its own motion to confirm the judicial sale, the court denied Torres's motion to transfer the matter to federal court, and the court continued the case to February 19, 2019, for presentation of Wells Fargo's motion. On February 19, 2019, the circuit court granted Wells Fargo's motion and issued an order confirming the sale and giving Torres 30 days to vacate the property.

¶ 23 The next day, Torres filed a fourth appeal, which was assigned case number I-19-0338.

¶ 24 While the fourth appeal was pending, Torres retained legal counsel and filed documents in the circuit court. The first document, filed on April 8, 2019, asked the circuit court to "Vacate the 2.19.19 Order of Possession issued by this Court for lack of jurisdiction due in part to a bad deed." The second document, filed on April 9, 2019, asked the circuit court to vacate all of its orders and enter judgment in Torres's favor on grounds that there were "releases for both the 2004 and 2007 alleged loans."

¶ 25 On April 19, 2019, Torres filed a motion *pro se* in the appellate court to withdraw the fourth appeal. The husband and wife informed the appellate court that they had retained an attorney who filed documents on their behalf in the circuit court and that they "obtained new evidence" they discovered after the order confirming sale had been entered on February 19, 2019. On May 2,

2019, the appellate court construed the motion as a motion to stay, stayed the appeal until August 1, 2019, thus giving Torres time to resolve the post-judgment documents the lawyer had filed in trial court, and ordered Torres to file a status report on or before July 29, 2019.

¶ 26 In the trial court, Wells Fargo filed a motion to dismiss Torres's April filings, arguing in part that the only avenue to attack a final judgment after 30 days in the trial court was through a section 2-1401 petition. Torres's two April filings did not attempt to meet the necessary elements of that type of petition, and Torres was impermissibly attempting to relitigate the foreclosure action. Torres did not respond to Wells Fargo's motion and instead filed a motion for substitution of judge, for cause. When the matter was called for hearing on July 22, 2019, Torres's attorney stated that he did not respond to the motion to dismiss because "[r]esponses are optional" and that he had filed the motion for substitution of judge "for prophylactic reasons." "without intend[ing] to carry it through." Counsel denied that he knowingly filed a frivolous motion, but acknowledged that he had not given notice of the presentation of the motion for substitution. The court declined to hear a motion which had not been noticed, considered the arguments regarding Wells Fargo's motion, and granted the motion to dismiss Torres's section 2-1401 petition, with prejudice.

¶ 27 Torres returned to the appellate court on July 29, 2019 where the fourth appeal was pending and filed a *pro se* motion to extend the stay of appeal that was to expire on August 1, 2019, on grounds that there was a motion pending in the circuit court. The next day, Wells Fargo filed a written response, factually indicating that there was nothing pending in the trial court. On August 1, 2019, the appellate court denied Torres's motion to extend the stay and reinstated the appeal.

¶ 28 That same day, August 1, 2019, Torres sought the appellate court's reconsideration and to reinstate the stay of the fourth appeal. Torres provided an affidavit reiterating the same arguments

that had been offered numerous times in the trial court, including that “neither Rosee Torres nor Noel Torres have ever applied for or have a Loan or mortgage with Wells Fargo;” that despite the contention of never having had a loan or mortgage, the mortgage is “PAID IN FULL, NO MORTGAGE;” that the judicial sale was “rigged;” that Wells Fargo told Torres that the bank “own[s] the courts in Cook County, particularly Chancery AND the judge handling the foreclosure at issue;” and that Wells Fargo made threats of arson, arrest, and deportation, as “land ownership is for Americans.” On August 7, 2019, the appellate court denied Torres’s motion for reconsideration of an additional stay of the appeal.

¶ 29 On August 13, 2019, Torres motioned to dismiss the fourth appeal “without prejudice,” because “[t]he Appeal Records at this time is [sic] wholly inadequate, in total disarray and in total disorder;” and “this case is pending in the Circuit Court of Cook County.” In response, Wells Fargo argued that the appellate court should treat Torres’s renewed motion to dismiss the fourth appeal as a motion to dismiss, instead of *sua sponte* treating it as a motion to stay; and Wells Fargo reiterated that there was nothing pending in the circuit court.

¶ 30 This court granted Torres’s motion to dismiss and dismissed the fourth appeal on August 19, 2019. The mandate issued on October 19, 2019.

¶ 31 On August 20, 2019, Torres appealed for the fifth time, seeking review of only the circuit court’s July 22, 2019 dismissal of the section 2-1401 petition. This is the current appeal. In the appellate brief, Torres seeks relief that goes far beyond the trial court’s granting of Wells Fargo’s motion to dismiss Torres’s section 2-1401 petition. Torres requests:

“Relief from Chancery denial of Section 2-1401 Motion on July 22, 2019, fraudulent summary judgment and rigged sale of property based on fraud, ID theft, forgeries, altering

blank World Savings form to create 15-17 fake, unauthorized loans/mortgages, discrimination (race, Afro-American; ethnicity-Hispanic; gender, female; age-elderly and disabled), incorrect/non-titleholder named; harassment and intimidate on (arson, eviction, arrest, deportation); damages."

¶ 32 Despite presenting an opening brief that contains 44-pages of argument, Torres mentions the section 2-1401 proceeding only briefly before returning to arguments that were previously raised in the underlying foreclosure case. With respect to the section 2-1401 petition, appellant Torres argues that at the hearing on July 22, 2019, the circuit court accepted Wells Fargo's "oral testimony \*\*\* over written evidence and uncontested affidavits, and despite the fact that Wells Fargo could not produce any recorded contract, lien assignment, endorsement or allonge from its predecessors \*\*\* and there are none in the Records."

¶ 33 Wells Fargo responds that the only order on appeal is the order denying the section 2-1401 petition, and that Torres is barred from directly challenging the underlying foreclosure.

¶ 34 Torres replies that Wells Fargo has made many false and incorrect statements to this appellate court. Torres contends that even though this is an appeal from the dismissal of Torres's section 2-1401 petition, this court can reverse the underlying judgment of foreclosure.

¶ 35 We agree with Wells Fargo that the scope of our review must be limited to the section 2-1401 proceeding that was the basis for Torres's current appeal and that we do not have authority to disturb the trial court orders that were entered in the prior action, the foreclosure action. We reach this conclusion because Torres voluntarily dismissed the fourth appeal, which was a timely appeal from a final and appealable judgment of the trial court. The foreclosure judgment had been entered on February 26, 2018, the judicial sale of the property occurred on January 4, 2019, and

the sale was approved on February 19, 2019. A judgment ordering the foreclosure of a mortgage is final and appealable once the court enters orders approving the sale and directing the distribution.

*In re Marriage of Verdung*, 126 Ill. 2d 542, 555, 535 N.E.2d 818, 824 (1989). Thus, on February 19, 2019, when the circuit court approved the judicial sale and ordered the distribution, Torres could appeal the foreclosure judgment. Torres filed the fourth appeal the very next day, on February 20, 2019. No other matters were pending in the trial court when Torres filed the fourth appeal on February 20, 2019. Torres's fourth appeal was, therefore, an effective appeal from a final and appealable judgment order. Torres, however, twice asked to dismiss the fourth appeal. This court treated Torres's first motion to dismiss the appeal as a motion to stay the appeal, but accepted Torres's second motion as a motion to dismiss and on August 19, 2019, granted Torres's request. When Torres did not file a petition for rehearing within 21 days, the dismissal order became final and the appellate court lost jurisdiction to consider an appeal from the foreclosure order. *Woodson v. Chicago Board of Education*, 154 Ill. 2d 391, 397, 609 N.E.2d 318, 321 (1993); Ill. S. Ct. R. 367 (eff. Nov. 1, 2017) (indicating an appellate court loses jurisdiction of an appeal if no petition for rehearing is filed within 21 days of the appellate court's judgment). In other words, by dismissing the appeal from the final judgment order in the underlying foreclosure, Torres forfeited the right to our review of the trial court orders issued in the foreclosure action.

¶ 36 Accordingly, our review is limited to the section 2-1401 proceeding. Torres chose to pursue further relief in the trial court with the assistance of counsel who filed documents in the trial court on April 8 and 9, 2019. Section 2-1401 "authorizes a party to seek relief from a final judgment, such as a default judgment, when brought more than 30 days after judgment has been entered."

*Sarkissian v. Chicago Board of Education*, 201 Ill. 2d 95, 102, 776 N.E.2d 195, 200 (2002) (citing

*Smith v. Airoom*, 114 Ill. 2d 209, 499 N.E.2d 1381 (1986); 735 ILCS 5/2-1401(a) (West 2000)). A section 2-1401 petition, however, presents “a new proceeding, not a continuation of the old one.” *Sarkissian*, 201 Ill. 2d at 102, 776 N.E.2d at 200. A section 2-1401 proceeding is “separate from the proceeding in which the judgment was rendered.” *Krol v. Wincek*, 258 Ill. App. 3d 706, 708, 630 N.E.2d 1021, 1023 (1994); *Niemerg v. Bonelli*, 344 Ill. App. 3d 459, 464, 800 N.E.2d 86, 89-90 (2003) (“although a section 2-1401 petition must be filed in the same proceeding in which the judgment sought to be vacated was entered, it is not a continuation thereof but is a new proceeding.”). “A section 2-1401 petition is addressed to the equitable powers of the trial court and allows a party to bring before the court matters unknown to the party and the court at the time of the judgment which would have precluded its entry. (Internal citations omitted.) *Krol*, 258 Ill. App. 3d at 708, 630 N.E.2d at 1023.

¶ 37 Like any complaint, the section 2-1401 petition must be legally sufficient in affirmatively setting forth specific allegations supporting the petitioner’s right to relief. *Airoom*, 114 Ill. 2d at 220-21, 499 N.E.2d at 1386. More specifically, a factually sufficient petition is one that includes allegations of (1) a meritorious defense or claim in the original action and the petitioner’s due diligence in both (2) presenting the claim or defense and (3) filing the section 2-1401 petition. *Airoom*, 114 Ill. 2d at 220-21, 499 N.E.2d at 1386. Like a complaint, the petition may be challenged by a motion to dismiss for its failure to state a cause of action or if, on its face, it shows that the petitioner is not entitled to relief. *Ostendorf v. International Harvester Co.*, 89 Ill. 2d 273, 279-80, 433 N.E.2d 253, 256 (1982). A section 2-1401 petition is the filing of new action “and it is necessary, as in any civil case, that the petitioner allege and prove a right to the relief sought.” *Brockmeyer v. Duncan*, 18 Ill. 2d 502, 505, 165 N.E.2d 294, 296 (1960) (discussing section 2-

1401 as it was previously numbered, section 72). "Where the [section 2-1401] petition fails to state a cause of action or shows on its face that the petitioner is not entitled to the relief sought, it is subject to a motion to dismiss." *Brockmeyer*, 18 Ill. 2d at 505, 165 N.E.2d at 296.

¶ 38 Torres's section 2-1401 petition consisted of one document that Torres's attorney filed on April 8, 2019, and an additional document that Torres's attorney filed on April 9, 2019. We will address these in turn because they present two separate arguments.

¶ 39 In the April 8th document, it was argued that the trial court had retroactively lost subject matter jurisdiction and must void the judicial deed to the highest bidder. The April 8th document was entitled "VERIFIED MOTION TO VACATE 2.19.19 ORDER OF POSSESSION AND TO VOID 4.3.19 [JUDICIAL] DEED FOR LACK OF SUBJECT MATTER JURISDICTION." Under this title, it was alleged that "the 2.19.19 Order of Possession, is invalid on its face," because after the foreclosure judgment was entered in 2018, there had been a judicial sale of the property in 2019, and a deed was issued in 2019 to the highest bidder, but Torres's new attorney could not find the name of that highest bidder in April 2019 "at the Illinois Secretary of State nor on Google." Torres argued this rendered the deed issued to that highest bidder and recorded on April 3, 2019 to be "invalid on its face and ineffective to transfer anything, and the 2.19.19 order void for the same reason." There was no citation to authority indicating that counsel's inability to find a name in a database was reason to doubt the trial court's subject matter jurisdiction on a prior date. Torres's April 8th filing did not present the type of argument that is authorized by section 2-1401. "The purpose of a section 2-1401 petition is to bring before the trial court facts not appearing in the record which, if known to the trial court *at the time judgment was entered*, would have prevented the judgment." (Emphasis added.) *Blutcher v. EHS Trinity Hosp.*, 321 Ill. App. 3d 131,

135-36, 746 N.E.2d 863, 868 (2001); *Krol*, 258 Ill. App. 3d at 708, 630 N.E.2d at 1023. In 2018, the trial court entered a foreclosure judgment and ordered the sale of real property, based on records indicating Torres had not paid a debt she owed to Wells Fargo for a loan she obtained in 2007. The trial court later confirmed the sale of that property to the highest bidder. Torres argued in the April 8th filing that if the trial court had known when it confirmed the sale that her subsequent attorney would have difficulty locating information about the highest bidder, then the trial court would not have confirmed the sale. This is not a defense, let alone a meritorious defense, to the order confirming the sale, nor is it a defense, let alone a meritorious defense, to the foreclosure judgment and the order to sell the property. Torres did not attempt to satisfy the first of the three essential prongs of a section 2-1401 petition. We need not address the two other prongs.

The April 8th document is not grounds for us to find that the trial court erred in granting Well Fargo's motion to dismiss Torres's section 2-1401 petition as deficient.

¶ 40 The April 9th document did not concern an attorney's search into the name of the highest bidder. Instead, it concerned a one-page document that Torres argued released the debt at issue. However, the April 9th document does not indicate that Torres was duly diligent in presenting this alleged release. The release that was tendered on April 9th is not the same release that Torres had filed and argued in the earlier proceedings. This was a new document submitted for the first time on April 9th. "Due diligence requires the section 2-1401 petitioner to have a reasonable excuse for failing to act within an appropriate time." *Airoom*, 114 Ill. 2d at 222, 499 N.E.2d at 1386. Thus, the petitioner must show that the "failure to defend against the [underlying] lawsuit was the result of an excusable mistake and that under the circumstances he acted reasonably, and not negligently, when he failed to initially resist the [underlying] judgment." *Airoom*, 114 Ill. 2d at 222, 499 N.E.2d

at 1386. Torres did not attempt to make this showing to the trial court. Torres's April 9th filing stated in its entirety:

“VERIFIED MOTION TO ENTER JUDGEMENT IN FAVOR OF DEFENDANTS AND

VACATE ALL ORDERS FOR LACK OF SUBJECT MATTER JURISDICTION

NOW COMES DEFENDANTS, by and through Defendants' undersigned Counsel,

and respectfully MOVE this Court to DISMISS this matter for lack of jurisdiction due, inter alia, there being in existence releases for both the 2004 and 2007 alleged loans on which this matter appears to be based<sup>1</sup>, and state in support that the attached release (Exh. 1) divested and divests this Court of legal and equitable jurisdiction as the claim, if valid, was satisfied prior to filing of this lawsuit.

Wherefor, the Deed of Record being invalid on its face and ineffective to transfer anything, and the 2.19.19 Order void for the same reason, and this Court having no original or other jurisdiction as a result of the attached release of the loan(s) sued on. Defendants MOVE the Court to:

- A. Vacate the 2.19.19 Order;
- B. Void the deed recorded 4.3.19;
- C. Vacate All other Orders Against Defendants;

---

<sup>1</sup> Torres incorrectly stated that the foreclosure action Wells Fargo filed in 2016 was based on separate loans that Torres obtained in 2004 and 2007. As we summarized at the outset of this order, the foreclosure complaint instead indicates that Torres had defaulted on a loan she obtained on February 7, 2007. The foreclosure complaint specified that her husband Noel was a “non-borrowing spouse” who had joined the 2007 security instrument “for the sole purpose of \*\*\* waiving any current or potential interest in the Property” and that he was being named as a co-defendant in order to terminate any homestead rights he had in the real estate. A release regarding a 2004 loan would have no bearing on Torres's 2007 loan.

D. Enter Judgement in Favor of Defendant Torres's

E. Grant leave to file a motion for sanctions and attorneys fees.

F. If this Court will not grant that relief, undersigned respectfully requests a finding that the denial is appealable as if a final order in the case."

¶ 41 Torres gave no indication, whatsoever, that the release attached to the April 9th filing could not have been presented earlier in proceedings and that Torres's failure to present it earlier "was the result of an excusable mistake and that under the circumstances [Torres] acted reasonably, and not negligently, when [Torres] failed to initially resist the [underlying] judgment." *Airroom*, 114 Ill. 2d at 222, 499 N.E.2d at 1386. The attached release bears the date of April 12, 2007, the foreclosure proceedings were filed on April 25, 2016, and thus, the purported release was available throughout the foreclosure action. The record indicates the underlying foreclosure action lasted nearly three years and that Torres was well-versed in the procedures for filing and presenting documents to the court. Because there was no explanation for why Torres did not present the new release prior to the final judgment entered on February 19, 2019, we find that Torres failed to establish due diligence in presenting a meritorious defense.

¶ 42 We also find that even when the April 8th and April 9th theories are considered together, Torres failed to present a sufficient section 2-1401 petition. Nothing that Torres filed or argued in April 2019 indicates that the trial court erred in granting Wells Fargo's motion to dismiss.

¶ 43 We next consider the crossmotions for sanctions, beginning with the first that was filed, the Wells Fargo motion.

¶ 44 Wells Fargo seeks sanctions for the motion Torres filed January 8, 2019, asking that we set aside our routine order dated December 30, 2019 granting Wells Fargo's motion for an extension

of time to file its appellate brief, even though Torres did not oppose the motion when it was first filed. Wells Fargo argues that it is apparent Torres filed the motion to reconsider the briefing schedule for the improper purpose of causing delay, harassment, or needless expense to Wells Fargo. Wells Fargo argues that Torres has "made meritless filing after meritless filing in a bad-faith attempt to forestall the foreclosure and attendant eviction" and that the motion was just "the latest in a long line of vexatious, inflammatory, and frivolous filings in this case."

¶ 45 Wells Fargo points to numerous allegations in the motion which Wells Fargo contends are blatantly false and made in bad faith. For instance, Torres included the previous allegations, which lacked any factual support, that the foreclosure action was part of a discriminatory campaign targeting the most vulnerable of society based on race, color, ethnicity; and also gender and disability. Wells Fargo contends another false and unsupported allegation is that the foreclosure action was based on forged documents. Wells Fargo emphasizes that the allegations of forgery are not new for Torres, as they employed the same tactic in another foreclosure case over 20 years ago. In 1983, Torres obtained a \$100,000 small business loan from the Small Business Administration ("SBA"). *United States for and on Behalf of the Small Business Admin. v. Torres*, 142 F.3d 962, 964 (7th Cir. 1998). *overruled on other grounds in Hill v. Tangherlini*, 724 F.3d 965 (7th Cir. 2013). The SBA loan was secured by a mortgage and Torres defaulted on the loan. *Torres*, 142 F.3d at 964. In the foreclosure proceeding, Torres alleged that the SBA had forged signatures on a mortgage document. *Torres*, 142 F.3d at 968. The federal district court, relying in part on an affidavit from a forensic document expert, concluded no forgery had occurred, and the Seventh Circuit affirmed. *Torres*, 142 F.3d at 968. The Seventh Circuit also affirmed the district court's findings that Torres had committed civil contempt by "attempt[ing] to deceive the court"

through the “introduction of fraudulent documents and testimony” (*Torres*, 142 F.3d at 964), which the Seventh Circuit characterized as “blatant and most disingenuous” (*Torres*, 142 F.3d at 965, n6). Wells Fargo also cites other false and unsupported allegations, which Torres has repeated during the litigation, including that Well Fargo informed Torres that it “own[s] the courts and the Clerk’s office;” Wells Fargo committed “theft of Rosee Torres IRA retirement account.” Wells Fargo threatened Torres with arson, arrest, imprisonment, and deportation. Torres never had a mortgage with Wells Fargo, and the mortgage loan was paid in full.

¶ 46 Illinois Supreme Court Rule 375(b) states that when an appeal or “other action” is “not taken in good faith, for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation,” the court may impose an “appropriate sanction,” which may include “an order to pay to the other party or parties damages,” or “the reasonable costs of the appeal or other action.” Ill. S. Ct. R. 375(b) (eff. Feb. 1, 1994). An appeal or “other action” is frivolous when “it is not reasonably well grounded in fact and not warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.” Ill. S. Ct. R. 375(b) (eff. Feb. 1, 1994). An appeal or “other action” will be “deemed to have been taken or prosecuted for an improper purpose where the primary purpose of the appeal or other action is to delay, harass, or cause needless expense.” Ill. S. Ct. R. 375(b) (eff. Feb. 1, 1994). The fact that a party is *pro se* does not excuse compliance with Rule 375(b). *See Wittekind v. Rusk*, 253 Ill. App. 3d 577, 582-83, 625 N.E.2d 427, 429-30 (1993) (imposing sanctions for frivolous appeal on a *pro se* party for bringing an appeal that was not “well grounded in fact or warranted by existing law”); *see also Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 87, 2 N.E.3d 1052 (“Sanctions may be awarded against *pro se* litigants under sufficiently egregious circumstances.”).

¶ 47 Our review of the record supports Wells Fargo's contention that Torres's request to reconsider the briefing schedule was not well grounded in fact. The allegations of forgery, discrimination, "own[ing] the courts," and threatening violence, arson, and deportation are totally unsupported and specious. Torres has never provided any evidence beyond self-serving statements that any of this misconduct actually occurred. Torres's motion to reconsider was also not warranted by existing law or good faith argument for the extension, modification, or reversal of existing law. Torres cited no authority that would warrant our reconsideration of a routine extension of the briefing schedule.

¶ 48 We agree with Wells Fargo that Torres filed the motion for an improper purpose of delaying, harassing, or causing needless expense to Wells Fargo. "Frivolous litigation wastes time, money, and resources that could be better spent addressing potentially meritorious claims filed by good-faith litigants." *Johnson v. Williams*, 2016 IL App (3d) 150824, ¶ 10, 60 N.E.3d 134 (citation omitted).

¶ 49 We grant Wells Fargo's motion to sanction Torres. Within 21 days of this order, Wells Fargo shall submit a fee petition detailing the amount it spent responding to Torres's frivolous motion to reconsider the order granting Wells Fargo additional time to file its appellate brief. Within 21 days of that filing, Torres may submit a response regarding Wells Fargo's fee petition.

¶ 50 Torres's request for sanctions relies on the same unfounded and inflammatory allegations that Wells Fargo "continue[s] an on-going misconduct of exploitation, threats, blackmail and extortion in their attempt to steal \*\*\* property through their racially and ethnically discriminatory policies and practices." We find Torres's motion for sanctions itself to be frivolous. We deny Torres's request for sanctions without further comment.

¶ 51 In conclusion, we affirm the trial court's denial of Torres's section 2-1401 petition, grant Wells Fargo's motion to sanction Torres, and deny Torres's motion to sanction Wells Fargo.

¶ 52 Affirmed; Wells Fargo's motion taken with case granted; Torres's motion taken with the case denied.

Atty. No.: 48928

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT - CHANCERY DIVISION

Wells Fargo Bank, N.A.

Plaintiff,

Case No. 2016-CH-05738

vs.

3546 West Beach Avenue, Chicago, IL  
60651

Rosee Torres; Noel Torres

Defendants.

Judge William B. Sullivan  
Cal 60

ORDER OF SUMMARY JUDGMENT

This cause, coming to be heard on the Plaintiff's Motion for Summary Judgment against

Defendants:

Rosee Torres  
Noel Torres

Due notice having been given and the Court being fully advised in the premises the Court finds that no material issue of fact has been raised;

IT IS HEREBY ORDERED that Summary Judgment is granted in favor of the Plaintiff and against Defendants:

Rosee Torres  
Noel Torres

Joel A. Knosher  
Manley Deas Kochalski LLC  
One East Wacker, Suite 1250  
Chicago, IL 60601  
Phone: 312-651-6700; Fax: 614-220-5613  
Atty. No.: 48928  
Email: MDKIllinoisFilings@manleydeas.com

ENTERED	111
JUDGE WILLIAM B. SULLIVAN	
Dated:	FEB 26 2013
Judge	CLERK

16-008824\_AMS7

E112

APP. L

Atty. No.: 48928

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT - CHANCERY DIVISION

Wells Fargo Bank, N.A.

Plaintiff,

vs.

Rosee Torres; Noel Torres

Defendants.

Case No. 2016-CH-05738

3546 West Beach Avenue, Chicago, IL  
60651

Judge William B. Sullivan  
Cal 60

JUDGMENT FOR FORECLOSURE AND SALE

THIS CAUSE coming to be heard upon Motion for Judgment of Foreclosure of Plaintiff  
Wells Fargo Bank, N.A. ("Plaintiff"). It is hereby ordered:

1. The Court has jurisdiction over the parties and the subject matter.
2. That Plaintiff is a person entitled to enforce the note, mortgage and indebtedness, and all the material allegations of the Complaint are true and proven. By virtue of the mortgage, and the evidences of indebtedness secured thereby alleged in the Complaint, there is due to the Plaintiff, and it has a valid subsisting lien on the property described hereinafter for the following:

Principal, Advances, and other amounts due	
Plaintiff:	\$236,009.73
Interest from April 1, 2013 to July 18, 2017:	\$69,618.96
Costs of Suit:	\$1,340.65
Attorneys' Fees:	\$2,750.00

a) TOTAL \$309,719.34

16-008824\_AMS7

- b) For such advances made in order to protect the lien of the judgment and preserve the real estate, such as, but not limited to: property inspections, real estate taxes or assessments, property maintenance, and insurance premiums incurred by the Plaintiff and not included in the Judgment and which is paid prior to the Judicial sale; that any such item expended shall become so much additional indebtedness secured by the judgment lien and bear interest from date of the advance at the Judgment rate of interest.
- 3. a) The Court specifically finds that service of process in each in each instance was properly made. The date when the last of the owners of the equity of redemption were served with summons or by publication was April 28, 2016 and the statutory right to reinstate, pursuant to Section 5/15 – 1602, has or will expire 90 days after last service date.  
b) The statutory rights of redemption, pursuant to Section 5/15 – 1603, shall expire on **May 26, 2018**, unless shortened by further Order of Court.
- 4. That under the provisions of said mortgage, the costs of foreclosure and reasonable attorneys fees are an additional indebtedness for which the Plaintiff should be reimbursed and that such expenses and reasonable attorneys fees are hereby allowed to the Plaintiff.
- 5. That the Mortgage described in the Complaint and hereby foreclosed appears of record in the Office of the Recorder or Registrar of Deeds, Cook County, Illinois, as Document Number 0705417094, and the property herein referred to and directed to be sold is described as follows:

LOT 30 IN BLOCK 6 IN VAN SCHAAK & HERRICKS SUBDIVISION OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS..

Commonly known as 3546 WEST BEACH AVENUE, CHICAGO, IL 60651

Permanent Index No. 16-02-208-030-0000

- 6. That the rights and interests of all of the following Defendants to this cause in and to the property hereinbefore described, are inferior to the lien of Plaintiff: Noel Torres.
- 7. The Court further finds that the Defendant, Noel Torres, has a lien by virtue of having signed the mortgage to waive homestead rights, that the lien of the Defendant, Noel Torres, is a good and subsisting lien and is subordinate and inferior to the lien of the Plaintiff herein.
- 8. That the original note and the original mortgage or Affidavit of Documents have been offered in evidence and exhibited in open Court, and Plaintiff is hereby given leave to withdraw, if any, the original note and the original mortgage and in lieu thereof substitute true and correct copies therefore which are attached to the Complaint filed herein.

16-008824\_AMS7

9. Plaintiff has been compelled to employ and retain attorneys to prepare and file the Complaint and to represent and advise the Plaintiff in the foreclosure of the mortgage, and the Defendant has and will thereby become liable for the usual, reasonable and customary fees of the attorneys in that behalf.
10. The Plaintiff has been compelled and will be compelled after entry of this judgment, to advance, various sums of money in payment of costs, fees, expenses and disbursements incurred in connection with the foreclosure, including, without limiting the generality of the foregoing, filing fees, service of process fees, copying charges, stenographer's fees, witness fees, costs of publication, costs of procuring and preparing documentary evidence and costs of procuring abstracts of title, foreclosure minutes and a title insurance policy, costs of sale, etc. Under the terms of the mortgage, all such advances, costs, attorneys' fees and other fees, expenses and disbursements are made a lien upon the mortgaged real estate and the Plaintiff is entitled to recover all such advances, costs, attorneys' fees, expenses and disbursements, together with interest on all advances at the Judgment rate of interest, from the date on which such advances are made.
11. In order to protect the lien of the mortgage, it may or has become necessary for Plaintiff to pay taxes and assessments which have been or may be levied upon the mortgaged real estate, and/or in order to protect and preserve the mortgage real estate, it has or may also become necessary for the Plaintiff to pay fire and other hazard insurance premiums on the real estate or to make such repairs to the real estate as may reasonably be deemed necessary for the proper preservation thereof. Under the terms of the mortgage, any money so paid or expended has or will become an additional indebtedness secured by the mortgage and will bear interest from the date such monies are advanced at the judgment rate of interest.
12. The allegations of Plaintiff's Complaint are true substantially as set forth, and the equities in the cause are with Plaintiff, and Plaintiff is entitled to the relief prayed for in the Complaint including foreclosure of said mortgage upon the real estate described therein in the amount of the Total Balance Due, as found above, together with interest thereon at the statutory judgment rate after the entry of this judgment and additional advances, expenses, and Court costs, including publication costs and expenses of sale.
13. Said real estate is free and clear of all liens and encumbrances that have been named herein, except unpaid general real estate taxes for the present or past years and thereafter and special assessments, if any, subject to any Defendants right of redemption.
14. Plaintiff's mortgage is prior and superior to all other mortgages, claims of interests and liens upon said real estate that have been named herein, except for real estate taxes and special assessments, if any, that have been named herein.
15. The sum of attorney fees allowed herein as stated above is the fair, reasonable and proper fee to be allowed to Plaintiff as attorney's fees in this proceeding in accordance with the terms of the note and mortgage given to Plaintiff by said Defendants, which should be added to and become a part of the indebtedness due to Plaintiff.

**IT IS THEREFORE ORDERED AND DECREED BY THIS COURT AS FOLLOWS:**

1. **REQUEST FOR FORECLOSURE:** An accounting has been taken under the direction of the Court of the amounts due and owing to the Plaintiff as declared herein.
  - a) The Defendants are ordered to pay to the Plaintiff before expiration of any redemption period (or, if no redemption period, within seven days after the date of this judgment) whatever sums may appear to be due upon the taking of such account, together with attorneys' fees, costs, advances, and expenses of the proceedings (to the extent provided in the mortgage or by law).
  - b) In default of such payment in accordance with this judgment, the mortgaged real estate shall be sold as directed by the Court, to satisfy the amount due to the Plaintiff as set forth in this judgment, together with the interest advances, and expenses incurred after judgment at the statutory judgment rate from the date of the judgment.
  - c) In the event the Plaintiff is a purchaser of the mortgaged real estate at such sale, the Plaintiff may offset against the purchase price of such real estate the amount due under the judgment for foreclosure and order confirming the sale.
  - d) In the event of such sale, and the failure of the person entitled thereto to redeem prior to such sale pursuant to statutory provisions, the Defendants made parties to the foreclosure in accordance with statutory provisions and all persons claiming by, through or under them, and each and any and all of them, shall be forever barred and foreclosed of any right, title, interest, claim, lien or right to redeem in and to the mortgaged real estate.
  - e) If no redemption is made prior to such sale, a deed shall be issued to the purchaser at sale according to law.
2. **SALE OF THE PREMISES:** The premises hereinabove described, covered by the security foreclosed in this action, shall be sold at public venue by a Sales Officer as appointed by this Court or the Sheriff of the County of Cook, (hereinafter referred to as "Sale Officer"). The attorneys for the Plaintiff shall give public notice of the time, place and terms of sale. The notice of sale shall be published at least three (3) consecutive calendar weeks (Sunday through Saturday), once in each week, the first such notice to be published not more than forty five (45) days prior to the sale, the last such notice to be published not less than seven (7) days prior to the sale, by:
  - a) advertisements in a newspaper circulated to the general public in the county in which the real estate is located, in the section of that newspaper where legal notices are commonly placed and;
  - b) separate advertisements in the section of such newspaper, which may not be the same newspaper used for section (A), in which the real estate other than real

estate being sold as part of legal proceedings is commonly advertised to the general public, provided, there being no requirement for the second advertisement to include a legal description, and;

- c) such other publications as may be further ordered by the court.

3. The Plaintiff or any of the parties to this cause, may become the purchasers at such sale. The "Sale Officer" may adjourn or continue the sale subject to the Notice and advertisement pursuant to the requirements of 735 ILCS 5/15-1507 (4)(c).

4. **TERMS OF SALE:** The "Sale Officer" shall offer for sale the real estate described in Paragraph Five (5) above, with all improvements, fixtures and appurtenances thereto; or so much of said real estate which may be divisible and sold separately without material injury to the parties in interest. The real estate shall be sold at public auction to the highest bidder for cash; requiring payment not less than ten percent (10%) at the time of sale and the balance within twenty-four (24) hours plus interest at the statutory Judgment rate on any unpaid portion of the sale price from the date of sale to the date of payment. All payments of the amount bid shall be in cash or certified funds payable to the "Sale Officer." In the event the bidder fails to comply with the terms of the purchase as required, then upon demand by the Plaintiff in a notice served on the "Sale Officer" and the bidder, the funds submitted shall be forfeited to Plaintiff or Plaintiff has the option to have the property sold to the next highest bidder. In the event there is a third party bidder other than Plaintiff, the "Sale Officer" shall obtain the name, address (other than a post office box), and telephone number of that bidder. Notice by first class mail to the address given by the bidder and to the "Sale Officer" shall be deemed sufficient notification by the Plaintiff to exercise its option to forfeit the funds. The subject property is offered for sale without any representation as to quality or quantity of title or recourse to Plaintiff.

5. **PROCEEDS OF SALE:** That the proceeds of said sale, shall be distributed in the following order of priority:

- a) The "Sale Officer" shall be paid his/her reasonable fees and costs;
- b) The reasonable expenses of sale;
- c) The reasonable expenses of securing possession before sale, holding, maintaining and preparing the real estate for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, receiver's and management fees and to the extent provided for in the mortgage or other recorded agreement and not prohibited by law, reasonable attorneys' fees, payments made pursuant to Section 5/15-1505 and other legal expenses incurred by the mortgagee;
- d) Out of the remainder of such proceeds, the amount found due to the Plaintiff in the Judgment shall be paid to the Plaintiff.

- e) If Plaintiff is the successful bidder at said sale, the amount due the Plaintiff, plus all costs, advances and fees hereunder with interest incurred between entry of Judgment and confirmation of sale shall be taken as a credit on its bid.
- f) If any sums remain after payment to the Plaintiff, said sum, if any, shall be paid to such Defendant in the order of priority as determined by the Court. If such Defendant is the successful bidder at sale, the amount due to said Defendant, plus all costs, advances, fees hereunder with interest incurred between entry of Judgment and confirmation of sale shall be taken as a credit on its bid.
- g) If the remainder of the proceeds shall not be sufficient to pay the above described amounts and interest, the "Sale Officer" shall then specify the amount of the deficiency in his/her Report of Sale. The Plaintiff may be entitled to a judgment in personam for the amount of such deficiency against Rosee Torres and a Memorandum of Judgment may issue to Plaintiff with the same lien priority as to the underlying mortgage herein foreclosed, without any rights of Homestead. Plaintiff does not seek this personal deficiency judgment if the named party has been discharged in a bankruptcy action and waives the personal deficiency judgment if a discharge is entered after this judgment. If such remainder shall be more than sufficient to pay such amounts and interest, the Clerk of the Court or other party designated by the Court shall hold the surplus subject to the further order of Court.

6. **CERTIFICATE OF SALE/RECEIPT:** Upon the sale of mortgaged real estate, the person conducting the sale shall promptly give a receipt of sale for funds tendered. The Sale Officer, after entry of an order approving sale and upon the request of the successful bidder shall execute and deliver a certificate of sale to the successful bidder and record a duplicate of said certificate in accordance with Sections 15-1507 of the Code of Civil Procedure. The certificate shall be freely assignable by endorsement thereon.

7. **REPORT OF SALE AND CONFIRMATION OF SALE:**

- a) Report of Sale -The person conducting the sale shall promptly make a report of sale to the Court.
- b) Hearing-Upon motion and notice in accordance with Court rules applicable to motions generally, the Court shall conduct a hearing to confirm the sale. The Court shall then enter an order confirming the sale, which order shall include a judgment for possession which judgment shall become effective thirty (30) days after entry. The confirmation Order may also:
  - (i). approve the mortgagee's fees, costs and additional advances arising between the entry of the judgment of foreclosure and the confirmation hearing.
  - (ii). provide for a personal judgment against any party for a deficiency; and

(iii). Determine the priority of the judgments of parties who deferred proving the priority pursuant to subsection (i) of Section 5/15-1506, but the Court shall not defer confirming the sale pending the determination of such priority.

8. a) **SPECIAL REDEMPTION:** Upon the Judicial Sale of "residential" real estate to the mortgagee who is a party to this foreclosure or its nominee for a sale price less than the amount required to redeem as specified in 735 ILCS 5/15-1603(d), an owner of redemption as specified in 735 ILCS 5/15-1603(a) shall have a special right to redeem for a period ending 30 days after the date the sale is confirmed, Redemption shall be made by paying the amount required by and in conformity with the procedures specified in 735 ILCS 5/15-1604. Property so redeemed shall be subject to a lien for any deficiency remaining with the same lien priority as the underlying mortgage herein foreclosed, without any rights of Homestead.

9. **JUDICIAL/SHERIFF'S DEED:** Upon confirmation of the sale, payment of the purchase price and any other amounts required to be paid by the purchaser at sale, the party conducting said sale shall execute and deliver to the holder of the certificate of sale or if no certificate has been issued, then to the holder of the receipt of sale or the assignee thereof, a deed sufficient to convey title; said conveyance shall be an entire bar to all claims of the parties to the foreclosure and all persons claiming there under and all claims of UNKNOWN OWNERS and any NON- RECORD CLAIMANTS if served by publication.

10. The Court hereby retains jurisdiction of the subject matter of this cause, and of all the parties hereto, for the purpose of enforcing this judgment and appointing or continuing a Receiver or Mortgagee in Possession herein at any time during the period of redemption.

11. **Plaintiff, Wells Fargo Bank, N.A. shall mail a copy of the Judgment of Foreclosure and Sale within seven (7) days to the last known address of the mortgagor(s).**

Joel A. Knosher  
Manley Deas Kochalski LLC  
One East Wacker, Suite 1250  
Chicago, IL 60601  
Phone: 312-651-6700; Fax: 614-220-5613  
Atty. No.: 48928  
Email: MDKIllinoisFilings@manleydeas.com

ENTERED:

Dated: ENT / 2013 / 02  
JUDGE WILLIAM R. SHILLMAN

Judge FEB 26 2013  
DOROTHY L. CLERK OF THE CIRCUIT COURT

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT - CHANCERY DIVISION

Wells Fargo Bank, N.A.

Plaintiff,

vs.

Rosee Torres; Noel Torres

Defendants.

Case No. 2016-CH-05738

3546 West Beach Avenue, Chicago, IL  
60651

Judge William B. Sullivan  
Cal 60

ORDER DISMISSING PARTY DEFENDANT

This cause, coming to be heard on Plaintiff's Motion to Dismiss Party Defendant, the Court having jurisdiction over the parties and subject matter and being fully advised in the premises;

IT IS HEREBY ORDERED that the Defendant, Unknown Owners and Non-Record Claimants is hereby dismissed as a party defendant.

Jöel A. Knosher  
Manley Deas Kochalski LLC  
One East Wacker, Suite 1250  
Chicago, IL 60601  
Phone: 312-651-6700; Fax: 614-220-5613  
Atty. No.: 48928  
Email: MDKIllinoisFilings@manleydeas.com

ENTERED:

Dated: February 20, 2017  
JUDGE WILLIAM B. SULLIVAN

Judge Febr 20 2017  
RECORDED  
SHERIFF

16-008824\_AMS7

Order

(Rev. 02/24/05) COG N002

## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Wells Fargo Bank, N.A.Torres, et alNo. 16 CH 5738524b  
4341  
421  
423  
42

## ORDER

This cause coming on to be heard on Defendant's Motion to file Sur-Response to Plaintiff's Motion to Dismiss Counterclaim Plaintiff's Motion to Dismiss Counterclaims, Plaintiff by Counsel, Rosee Torres, appearing pro se; and this Court being fully advised;

IT IS SO ORDERED:

- Defendant's motion for leave to file Sur-Response is Denied.
- Plaintiff's Motion to Dismiss counterclaims is granted.
- Defendant's counterclaims are stricken with prejudice.
- Plaintiff shall respond to Defendant's Motion to Dismiss on or before January 4, 2017.
- Defendant shall Reply on or before February 1, 2017.
- Defendant's Motion to Dismiss is set for hearing on February 23, 2017 at 2:30 PM in Room 2803 without further notice.

Attorney No: 48428Name: M.K. - KasherAtty. for: PlaintiffAddress: 16 Wacker, Ste. 1250City/State/Zip: Chicago, IL 60601Telephone: 312-651-6700ENTERED: Judge William B. Sullivan

DEC 07 2016

Dated: Circuit Court - 2142

Judge

Judge's No.

APP. M

RV-7: C1599

## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Wells Fargo Bank, NANo. 16-ch-05738Rosee & Noel Torres

## ORDER

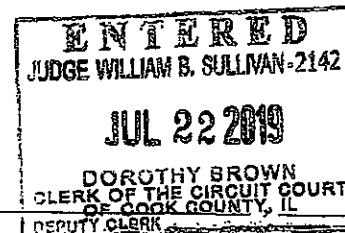
This matter having come before the court, which is fully advised, and oral argument having occurred, it is hereby ordered that

- Rosee & Noel Torres' April 8 & April 9, 2019 filings are construed as a petition under 735 ILCS 5/2-1401; and
- Rosee & Noel Torres' Section 2-1401 petition is denied with prejudice

Attorney No.: 6306744Name: Geoff PipolyAtty. for: Wells FargoAddress: 71 S. Wacker Dr.City/State/Zip: Chicago IL 60606Telephone: 312-782-0606

ENTERED:

Dated: \_\_\_\_\_



APP. N

Judge

Judge's No.

FILED -1

MON MAY 21 2010 \*\*E-Filed 5/17/2011\*\*

CIRCUIT COURT  
FEDERAL DISTRICT  
SAN JOSE CITY

CLERK:  
DOROTHY BROWN

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE WACHOVIA CORPORATION "PICK-A-PAYMENT" MORTGAGE MARKETING AND SALES PRACTICES LITIGATION.

Case No. 5:09-md-02015-JF  
JUDGMENT

The Court having granted final approval of the class action settlement,  
The action is HEREBY DISMISSED WITH PREJUDICE.

DATED: 5/17/2011

  
JEREMY FOGEL  
United States District Judge

APP. 0



UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois - CM/ECF LIVE, Ver 6.1  
Eastern Division



Rosee Torres

Plaintiff,

v.

Wells Fargo Home Mortgage, et al.

Defendant.

Case No.: 1:13-cv-05542  
Honorable Sheila M. Finnegan

Doc#: 1615316031 Fee: \$40.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00

Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 06/01/2016 02:40 PM Pg: 1 of 2

**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Monday, November 2, 2015:

MINUTE entry before the Honorable Sheila M. Finnegan: Plaintiff's motion to dismiss the lawsuit with prejudice [139] is granted. All claims are dismissed with prejudice. Each party shall bear its own attorneys' fees and costs. Civil case terminated. Mailed notice. (is.)

**ATTENTION:** This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at [www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov).

APP. P

	A TRUE COPY-ATTEST THOMAS G. BRUTON, 
DEPUTY CLERK	
U.S. DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS	
DATE: JUN 01 2016	

CCAO REVIEW

QR Code

III rights in other property that I have as owner of the Described Property. These rights are mineral, oil and gas, water rights and stock that are part of the Described Property;

(iv) All rents or royalties and other income from the Described Property;

(v) All mineral, oil and gas rights and profits, water rights and stock that are part of the Described Property;

(vi) All rights that I have in the land which lies in the streets or roads in front of, behind or next to, the Described Property;

(vii) All fixtures that are now or in the future will be on the Described Property or on the property described in subsection (ii) of this Section;

(viii) All of the rights and property described in subsections (ii) through (vii) of this Section that I acquire in the future;

(ix) All replacements of or additions to the property described in subsections (ii) through (viii) of this Section; and

(x) All of the amounts that I pay to Lender under Paragraph 2 below.

#### IV. BORROWER'S RIGHT TO GRANT A SECURITY INTEREST IN THE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY

I promise that (i) I lawfully own the Property; (ii) I have the right to mortgage, grant and convey the Property to Lender; and (iii) there are no outstanding claims, charges, liens or encumbrances against the Property, except for those which are of public record.

I give a general warranty of title to Lender. This means that I will be fully responsible for any losses which Lender suffers because someone other than myself has some of the rights in the Property which I promise that I have. I promise that I will defend my ownership of the Property against any claims of such rights.

#### COVENANTS

#### RELEASE

Borrower/Buyer agrees to the acceptance and acknowledgement of Transfer Disclosure as this instrument and Release of all claims, including but not limited to, (i) claims and defenses of any kind or nature of whatsoever nature, to the amount of \$11,415, to be applied as down payment on my purchase of the above described property, there is no new purchase by credit for **FOURTY THOUSAND AND NOHO (\$40,000.00)** paid by Borrower/Buyer to original mortgage as down payment (ii) all amounts to my payments to Lender and Principal and all monies applied to Applied Points and Miscellaneous Funds, including monies applied to Closing costs and taxes - **ELLEVEN THOUSAND SIX HUNDRED FIFTEEN DOLLARS (\$11,615)** for a total of **\$50,157** and representing payment in full, applicable to all funds mortgaged, including transfers.

This Settlement is based on Saxon Mortgage's balance of \$91,955.89 on its March 2003 Statement, adjusted herein, and World Savings balance of \$10,157 Statement of November 2002, reduced hereof. World Savings agrees to record this instrument and/or instrument with the appropriate Recorder's office, Cook County Recorder of Deeds, Chicago, Illinois, with correct name of new Borrower/Buyer on documents.

Borrower/Buyer agrees to provide new purchaser to property at 3540 West Beach Avenue, Chicago, Illinois, said new Borrower/Buyer (D. Bimelli) to finance through World Savings under separate and distinct credit and mortgage terms as required by the Lender, certifying the name of the new Borrower/Buyer to new Borrower/Purchaser, rather than the undersigned.

EX. Q

RECORDED 11-25-2003

FILED -1

## FINANCIAL

2220 Foothill Blvd, Suite 1  
Hayward, CA 94541  
(510) 247-8870

COMMERCIAL  
2220 Foothill Blvd, Suite 1  
Hayward, CA 94541  
510-247-8870

2011 MAY 27 AM 10:13

CHECK NO. 0036346

CIRCUIT COURT OF CALIFORNIA  
COUNTY OF ALAMEDA  
CHAMBERS ROLL

DATE	ESCROW NO.	AMOUNT
02/14/2007	13940026-406 SRP	\$29,421.50

PAY TWENTY-NINE THOUSAND FOUR HUNDRED TWENTY-ONE DOLLARS and 63/100

TO THE ROSEE TORRES  
ORDER 3540 WEST BEACH AVENUE  
OF CHICAGO, IL 60651

ALAMEDA CONTRA COSTA TRUST ACCOUNT

*Jay L. Anderson*

VOID AFTER SIX MONTHS

#0036346 2P 4121137528C 18920946887P

Settlement - WORLD SAVINGS  
D/P - 3542 • 3550 West Beach

EX. Q

Recording Requested By  
GWSA, TRUSTEE FOR WORLD SAVINGS

When Recorded Return To  
GOLDEN WEST SAVINGS ASSOC  
TRUSTEE FOR WORLD SAVINGS  
P O BOX 44887  
San Antonio, TX 78285-4887

REC'D - 1

REC'D - 1  
REC'D - 1

CIRCUIT COURT  
COUNTY  
CHAMBERS CO

Doc#: 0708010018 Fee. \$25.50  
Eugene "Gene" Moore P&SCF Fee \$10.00  
Coch County Records of Deeds  
Date 03/21/2007 09:58 AM Pg 1 of 3

CLERK  
DOROTHY FROST

**SATISFACTION**  
Golden West Savings Association Successor Co. & TRUSTEE FOR WORLD SAVINGS, Lender of Money, Lender, Bank, Lender, Date, Date of Recordation  
FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE  
RECORDING OR THE REGISTRAR OF TITLES IN WHOSE OFFICE THE MORTGAGE OR DEED OF  
TRUST WAS FILED.

KNOW ALL MEN BY THESE PRESENTS THAT WORLD SAVINGS BANK, FSB, A FEDERAL SAVINGS BANK holder of a  
CREDIT MORTGAGE, made and executed by ROSEE TORRES, A MARRIED WOMAN, originally to WORLD SAVINGS BANK,  
FSB, A FEDERAL SAVINGS BANK, in the County of COCH, and the State of TEXAS, Dated 11/19/2004 Recorded  
11/22/2004 as instrument No. 00004410, does hereby acknowledge that she received full payment and satisfaction of  
the same, and in consideration thereof, does hereby cancel and discharge said mortgage.

Legal: See Exhibit "A" Attached Hereto And By The Reference Made A Part Hereof

Assessor's Tax ID No. 1042-205-030-0000

Property Address 2545 W. BEACH AVE. CHICAGO, IL 60651

IN WITNESS WHEREOF, the undersigned, by the officer duly authorized, has duly executed the foregoing instrument

WORLD SAVINGS BANK, FSB, A FEDERAL SAVINGS BANK  
On March 16, 2007

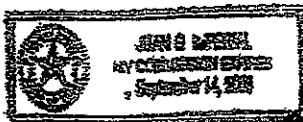
By   
TRACEY WRIGHT, Assistant Vice President

STATE OF TEXAS  
COUNTY OF Bexar

On March 1st, 2007, before me, JUAN G. IMPERIAL, a Notary Public in and for Bexar in the State of Texas, personally  
appeared TRACEY WRIGHT, Assistant Vice President, personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the person(s) whose name(s) were subscribed to the within instrument and acknowledged to me that  
he/she they executed the same as his/her her authorized capacity, and that by his/her her signature on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

IN WITNESS my hand and official seal,

JUAN G. IMPERIAL  
Notary Public  
Notary Expiry 09/14/2018



C377  
C430

EX. Q<sup>2</sup>

WFTOR0003150

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ROSEE TORRES, et al., )  
Plaintiffs, )  
v. ) No. 19-cv-00112  
JUDICIAL SALES CORPORATION, et al., )  
Defendants. )  
Judge Andrea R. Wood

**ORDER**

Pursuant to 28 U.S.C. § 1915(e)(2), Plaintiffs' complaint [1] is dismissed for lack of subject-matter jurisdiction. The dismissal is without prejudice to Plaintiffs seeking whatever additional review or relief may be available to them in state court. All other pending motions and hearing dates before this Court are stricken. The Clerk is directed to enter Judgment in favor of Defendants. Civil case terminated. See the accompanying Statement for details.

**STATEMENT**

The present matter arises from Defendants' state-court foreclosure action against Plaintiffs, which resulted in the auction and sale of Plaintiffs' home in a judicial sale held on January 4, 2019. In their complaint (Dkt. No. 1), Plaintiffs allege that Defendants engaged in a conspiracy to foreclose upon Plaintiffs' home and evict them from their property through fraud. Specifically, Plaintiffs allege that they never had a mortgage with Defendants, and the note underlying the mortgage on their home was settled by release in November 2004. Then, in March 2007, the entity that held Plaintiffs' note recorded a satisfaction with the Cook County Recorder of Deeds indicating that the property had been paid in full and there was no longer a mortgage. However, Plaintiffs allege that Defendants obtained confidential records concerning Plaintiffs and used those records to fabricate a sub-prime loan on their home. Defendants were then able to foreclose upon Plaintiffs' home on the basis of the fraudulent mortgage.

Shortly after filing their complaint, Plaintiffs filed an emergency motion to stay the sale of their home and for an injunction preventing the sale of their property. (See Dkt. No. 11.) The Court denied the motion. While the Court granted Plaintiffs' motion for leave to proceed *in forma pauperis*, it noted that it would take Plaintiffs' complaint under advisement for review pursuant to 28 U.S.C. § 1915(e). Plaintiffs recently filed a motion asking this Court to reconsider its previous ruling denying a stay and injunction preventing the sale of their home. In their motion (Dkt. No. 19), Plaintiffs stated that the state court has issued a final order confirming the sale of their property. Plaintiffs confirmed the final judgment at the motion hearing and further represented that they have filed an appellate with the Illinois Appellate Court. Based on the state court's



**APP. R**

law of preclusion permits." *Frederiksen v. City of Lockport*, 384 F.3d 437, 438 (7th Cir. 2004). Thus, the dismissal is without prejudice to Plaintiffs seeking whatever additional review or relief may be available to them in state court.

Dated: April 5, 2019



Andrea R. Wood  
United States District Judge

