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IN THE
SUPREME COURT OF THE UNITED STATES

Frank Deville, et al.

Applicants,

v.

Specialized Loan Servicing LLC, et al.,

Respondents,

APPENDIX TO EMERGENCY APPLICATION FOR STAY OR IN
THE ALTERNATIVE, ON PETITION FOR A WRIT OF
CERTIORARI AND INTERLOCUTORY
REVERSAL

Applicant(s), Pro Se

Respectfully submitted,
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No. 20-56328

United States Court of Appeals for the Ninth Circuit

Frank Deville and Dee Deville, Plaintiffs-Appellants

v.

Specialized Loan Servicing LLC, et al., Defendant-Appellees

**APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
DISTRICT COURT NO. 02:20-cv-05576-JGB-E**

**PETITION FOR REHEARING AND PETITION FOR
REHEARING EN BANC
(January 27, 2022- Silverman, Clifton and Hurwitz)**

**Frank Deville
Appellant-Plaintiff**

**Dee Deville
Appellant-Plaintiff**

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CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel certifies that the persons having an interest in the outcome of this case are:

1. Frank Deville **Plaintiff -Appellant**
2. Dee Deville **Plaintiff-Appellant**
3. Bank of America, N.A., as indenture
Trustee and as servicing agent for Towd
Point Master FundingTrust,2019-PM7, **Defendant-Appellee**
4. Wells Fargo N.A, **Defendant-Appellee**
5. Towd Point Mortgage trust 2020-1, **Defendant -Appellee**
6. **Honorable District Judge, Jesus G. Bernal**
7. Towd Point Master Funding
Trust 2019-PM7, **Defendant-Appellee**
8. U.S Bank N.A., as Indenture trustee
And as servicing agent for Towd Point
Master Funding trust 2019-PM7, **Defendant -Appellee**
9. Specialized Loan Servicing LLC,
individually and as servicing agent
for Towd Point Mortgage trust 2020-1, **Defendant-Appellee**

This certificate is made so that the judges of this Court may evaluate possible disqualification or recusal.

/s/ Frank Deville

/s/ Dee Deville

Frank Deville

Dee Deville

RULE 35(b)(1) STATEMENT

The appellants believes, the questions presented by this petition satisfy the criteria of Federal Rule of Appellate Procedure 35(b)(1). The panel decision conflicts with Supreme Court precedent, *Carey v. Piphus*, 435 U.S. 247, 259-262, 266-267, 98 S.Ct. 1042, 1043, 1050-1052, 1053, 1054, 55 L.Ed.2d 252, (1978). It preserves both the appearance and reality of fairness, "generating the feeling, so important to a popular government, that justice has been done," *Joint AntiFascist Committee v. McGrath*, 341 U.S. 123, 172, 71 S.Ct. 624, 649, 95 L.Ed. 817 (1951) (Frankfurter, J., concurring), by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). Creates a new standard for Fourteenth Amendment which guarantees Equal Protection Clause of the 14th Amendment. *United Cohen v. Beneficial Industrial Loan Corp.*, 337 US 541. Were clear errors exist, *United States v. Moran*, 778 F.3d 942, 985 (11th Cir. 2015), *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955) where res judicata does not bar a suit, *Goldberg v.*

Kelly, 397 U.S. 254,265-70 (1970) where the due process clauses are lacking. Appellants should receive a right to be heard and the right to proceed.

While this is a path seldom traveled by the undersigned, the defense believes that the issues presented require the full Circuit's attention. Consideration by the full Court is therefore necessary to secure and maintain uniformity of the Court's decisions. The questions are also of exceptional importance in the civil law context as the Fourteenth Amendment is at issue. The panel decision creates a rule that will likely undermine the protections of the Fourteenth Amendment and will essentially allow mortgagers to be victimized and every innocent citizen in the vicinity are of their choosing to attempt to hijack or victimize consumers who desire the right of a home of this society as a whole.

This decision is inconsistent with Supreme Court and Third Circuit precedent *United States v. Fiorelli*, 337 F.3d 282, 338 (3d Cir. 2003) and "ventures down a slippery slope that erodes individuals' constitutional rights to go about their lives free from

arbitrary police interference,” as stated by Judge Dennis in his dissent.

California Attorney General Xavier Becerra today filed an amicus brief in support of the rights of homeowners in Sheen v. Wells Fargo Bank, a case under review by the California Supreme Court pending in the court as of now.

This decision is inconsistent with the Supreme Court and eleventh circuit Primo C. Novero vs. Duke Energy. For these three reasons, Mr. Darrell urges this Court to rehear the case en banc.

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION & SUMMARY

In appellants/counsel judgment one or more of the situations exist for the purpose for the rehearing en banc. Material point of facts or law was overlooked in the decision, a change in law occurred after the case was submitted which appears to have been overlooked by the panel, which appellants believe that a consideration by the full court is necessary to secure or maintain uniformity of the courts decision.

A Court can order sua sponte, special management for complex appeals. However, case management conferences are held only in exceptional circumstances which exist. There are several litigants as seen in informal brief page 27-30 ¶¶ E and are dealing with several court decisions as seen in informal brief page 36 ¶¶ 10. This is a different, viable lawsuit that has been unjustifiably cut short at the pleading stage. This court should reverse and allow the case to proceed in the district court. A constitutional question does exist as stated (3-EX-685-695),(7-EX-1966-1982) in the statement of the issues (7-EX-1942-1961).The existence of such

conflict is an appropriate ground for petitioning for rehearing en banc.

Arrearages have been paid twice, including having to pay double because the defendant wells fargo failed to inform the bankruptcy court and since have been current. The appellants have presented sufficient evidence to the court but the evidence was overlooked.

This court has held that if a consumer is being harassed and it affects this society as a whole and violates human rights if it can be proven that this court can take action. Though, the opinion of this court has affirmed the district decision, that the pleaders complaint does not comply per rule 8, the appellants gave an explanation in their informal brief page 19 and informal reply page 13 explaining what was asked by the scheduling order and to why the answers were longer.

Evidentiary rulings present an opportunity for the judge to explain in plain English the basis for a ruling admitting or excluding a particular piece of evidence.

In the Holloway case the appellate court reversed the trial court on the grounds that it had not recognized its discretion to give neutral guidance to Holloway. Reasonable steps, appropriate under the circumstances, to enable the litigant to be heard." (Cf. Austin v. Valverde (2012) 211 Cal.App.4th 546, 550 ["[f]ailure to exercise discretion is itself an abuse of discretion"].) Doing so would have served the interests of justice as well as conserving the resources of the court and its personnel. Holloway, supra, 242 Cal.App.4th at p. 14.

In addition, the appellants had requested leave to Amend complaint in response to the defendants opposition on 10/9/2020 docket # [154], [159] & [155]. Appellants filed a timely amended complaint within the 21 days as stated in the informal brief page 23 according to rule 15.

Moral Reasoning's approach is necessary.

In the appeals decision many issues were overlooked resulting in this request for rehearing/en banc review.

I. FACTS RELEVANT FOR THIS PETITION PANEL REHEARING AND REHEARING EN BANC

Appellants Frank Deville and Dee Deville Statement in support of rehearing en banc petition and rehearing en banc of the opinion (Docket entry No. 56-1) of January 27, 2022, entering judgment in favor of the Appellees. A en banc rehearing is appropriate when a material point of law was overlooked in the decision. An en banc rehearing by this Circuit is proper when (1) the panel decision conflicts with a decision of the Supreme Court or a decision of this Circuit so that consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions or (2) the case involves a question of exceptional importance because it conflicts with an opinion of another court of appeals and substantially affects a rule of national application in which there is an overriding need for national uniformity. Pursuit to rule FRAP 40-1. Petition for Panel Rehearing & FRAP 35-1.

The decision should be reversed and remanded avoiding unseemly conflict between two sovereignties, the unnecessary impairment of state functions, and the premature determination of constitutional questions." Sederquist, 590 F.2d at 280 (quoting Martin v. Creasy, 360 U.S. at 224, 79 S.Ct. at 1037). Factors are present here.

II. The Opinion Overlooks a Material Point of Law Resulting in a Conflict with Another Decision of this Court So That Rehearing Is Necessary to Secure Uniformity of This Court's Decisions

Argument and Authorities:

1. Concerning State and Federal law conflict and the need to revisit the decisions

Appellants have several issues here unaddressed and overlooked, as seen in the informal brief attached as (exhibit A) page 17 ¶¶ h , ¶¶ j page 19, ¶¶ l page 21, ¶¶ 6 page 25, ¶¶ C & D page 27 to name a few and the informal reply brief (Exhibit B) concerning federal and state conflict but were not addressed in the appeal decision. Re-visiting the lower courts decision would address the conflict between the two sovereignties. Many issues were never litigated BOA is not a party to any lawsuit, but they violated 15 USC 1639: (d) as stated in opening brief page 18. There were clear predatory lending practices as seen in the informal brief and the response informal brief ¶¶ E, 1-13 page 27-32.

2. The court should give the Fed leave. R. Cic. P. 15(a)(2)when justice so requires

The distinction drawn in former Rule 15(a) is changed in two ways.

First, the right to amend once as a matter of course terminates 21

days after service of a motion under Rule 12(b), (e), or (f). The appellants filed a timely amendment as stated in the opening brief page 12 & 34, requested leave to Amend complaint in response to the defendants opposition on 10/9/2020 docket # [154], [159] & [155]. Appellants filed within the 21 days. Appellants filed there request on 10/22/2020 docket #170 as seen in 3-ER-824-1049 as seen in opening brief page 33.

The court ordered the appellants to separate the defendants when alleging the issues. When the appellant alleged what the issues were the complaint was expanded because of repetitive complaints against the defendants but acquired the same complaints.

3. violated rule 8 U.S.C § 1324c, CCP §3412 by filing false information or passing on official documents overlooked and erred in its decision

The court has the ability to judicially notice documents but should not give room for abuse by passing official documents as though they were properly negotiated as stated in informal brief ¶¶ i page 20,25 & 16.(18 U.S.C §152 & 3571).

4. The court's decision to not allow further leave overlooked that district court overlooked rule 15

According to CCP section 430.41 (e) (1) In response to a demurrer, a complaint shall not be amended more than three times but the appellants only amended the complaint once after a demurrer. The court gives consideration to pro se litigants requesting leave to amend a complaint as stated in informal brief page 23-24. "Courts are particularly reluctant to deny leave to amend to pro se litigants. " *Flowers v. First Hawaiian Banks*, 295 F .3D 966, 976 (9th Cir. 2002). The distinction drawn in former Rule 15(a) is changed in two ways. First, the right to amend once as a matter of course terminates 21 days after service of a motion under Rule 12(b), (e), or (f). A responsive amendment may avoid the need to decide the motion or reduce the number of issues to be decided, and will expedite determination of issues that otherwise might be raised seriatim. It also should advance other pretrial proceedings. It is undisputed that a factual nexus exists here.

5. The court overlooked and erred when it decided that amending would be futile

The appellants amendment would not be futile but hoped it would be powerful, effective, cogent, useful, solid & substantial to the best of

their ability as seen in excerpts of record volume 3-ER-824-837 thru 4-ER-838-1046.

6. The court erred by appellants motion to consolidate was without merits

A decision or ruling of a court based upon the facts presented in evidence and the law applied to that evidence does exist. The appellants has presented facts and evidence and has given the law applied to the evidence. Appellants seeked relief Pursuit to Civil Code section 1048. The facts presented collectively as "appellants," seeks consolidation of the case To prevent unnecessary duplication of evidence and procedures, inconsistent adjudications, under CCP section 1048.

The appellants were forced to respond to numerous defendants in most situations all at one time with all the same deadlines, preventing a fair response, 2-ER-327-330 & 3-ER-610-613 on page 8 in informal brief.

7. The court erred by appellants motion to alter judgment was without merits

Appellants' case has established jurisdiction to the Western Division cover sheet doc # 21 & 83 (Vol. 2, ER-320-ER-322), appellants' declination to the transfer for lack of jurisdiction appellants' decline pursuit of Civil Code 28 U.S § 1391(c)(2) no consent by both defendant nor appellants' (ER VOL. 2, ER-316) and

for error in the filing of the civil cover sheet allow the appellants' to receive relief pursuant to Rule 60(a). Relief from a Judgment or Order. Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The motion gave clear evidence as seen in the motion excerpts of record volume 2-ER-315-326. The magistrate judge in docket #60(3-ER-543-560) who recognized relief should be exercised, seen in informal brief ¶¶ a, page 12 (3-ER-555), 389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999). The appellants allege error." United States v. Fiorelli, 337 F.3d 282, 338 (3d Cir. 2003). The district court has committed a clear error. Cohen v. Beneficial Industrial Loan Corp., 337 US 541.

8. The court erred when they stated that the matters were not raised or argued in the brief

The appellants are pro-se litigants and similar to (Primo C. Novero vs. Duke Energy, URS Energy and Construction Inc., CDI Corporation case # 17-14963) stated: "Although Plaintiff's brief does not contain an argument section with citations to legal authority, he does specify the underlying facts upon which his arguments are based and includes cites

to the record. Moreover, his "Summary of the Arguments" adequately identifies the legal theories upon which he seeks relief, at least in some instances. Accordingly, they exercise their discretion to consider his brief. The applicant has mentioned issues or referenced the issues purportedly incorporated by reference as seen in this brief [United States v. Moran, 778 F.3d 942, 985 (11th Cir. 2015)] as stated to their response page 15 in reply brief.

9. No notice of the complaint deficiencies and as opportunity to amend prior to dismissal of the action. " Lucas v. Dept. of Corrections, 66 F .3d 245, 248 (9th Cir. 1985), as stated in the brief page 24.

Before dismissal the appellants were not noticed of the deficiencies as seen in the brief page 23.

10. Appellants did exhaust all administratives review

The applicant did exhaust all administered review as seen in the informal brief ¶¶ 2 page 9-10.

III. Conflict with other Circuits

1. Additionally, the court may consider whether the hearing officer's decision was adjudicatory and in writing with a statement of reasons, and whether that decision was adopted by the director of the agency with the potential for later judicial review as seen in Pacific Lumber Co. v. State Water Resources Control Board, 37 Cal.4th 921, 944 (2006)

An administrative determination will possess adequate judicial character if the agency adheres to basic notions of due process and fairness provided in any given situation as seen in *Castillo v. City of Los Angeles*, 92 Cal.App.4th 477, 484-86 (2001); *Khaligh v. Hadaegh*, 338 B.R. 817, 828-30 (9th Cir. B.A.P. 2006), *aff'd*, 506 F.3d 956 (9th Cir. 2007); Restatement (Second) of Judgments § 83.

The due process clause applies to state agencies. U.S. Const., amend. XIV, § 1; Cal. Const. Art. 1, §7(a); *Goldberg v. Kelly*, 397 U.S. 254, 265-70 (1970); *Kruger v. Wells Fargo Bank*, 11 Cal.3d 352, 365-71 (1974). To assure that fairness is acquired Adjudicatory proceedings must adhere to a fundamental administrative adjudication bill of rights, including basic due process and fairness in accessible procedures, a public hearing, a neutral presiding officer, a prohibition of *ex parte* communications and a written decision based on the record. See, e.g., Cal. Gov't Code §§ 11400-11470.50; 25 Cal. L. Revision Comm'n Reports 55 (1995), which took place in this case presented before the court, *Plaine v. McCabe*, 797 F.2d 713, 718-19 (9th Cir. 1986).

2. **The administrative agency did not maintained a verbatim record of the proceedings**

The appellants reached out once they recognized that documents were missing and made multiple attempts to have it corrected but the declaration was returned unfilled in the case as exhibit D, docket 272,271,206,58,94 & 129 were missing in the history docket list. [Imen v. Glassford, 201 Cal.App.3d 898, 907 (1988), followed in Jacobs v. CBS Broadcasting, Inc., 291 F.3d 1173, 1179 (9th Cir. 2002)] & White v. City of Pasadena, 671 F.3d 918, 928 (9th Cir. 2012).

3. The parties did not have the right to subpoena witnesses and present documentary evidence in either cases

The proceedings before the district court were overlooked and an order was never made. The motion for pre-trial conference docket # 119 with attached proposed order and the request for ADR docket #121 and request for transfer docket #964 for example in opening brief page 1 attached as exhibit H & I for proof of filing .

4. The court erred by not reviewing A transcript of a court record, the verbatim, official or certified record of all proceedings that transpired in the trial court

The bankruptcy court erred when they did not verify that the defendants holded the title on the property before processing their documents. Wells , and U.S Bank and their server SLS passed the deed as if it was officially assigned but it was not deceiving the court

as well as the appellants'. How could a deed be passed without catching any attention as stated in informal brief ¶¶ h page 17, (Deutsche Bank Natl. Trust Co. v. Adlerstein).

5. The court erred when stated that the district court correctly concluded that the claims should be barred by claim preclusion

The appellants' claims in previous cases were dismissed for lack of standing in their first suits, and their second suit relies on three occurrences not in existence during the first suit: worsening conditions or repeated abuse concerning appellants' mortgage loan. The defendants have violated a stay order and co-conspired the illegal acts as stated in the amended complaint 2-ER-384-441, 3-ER-824-1046 & opening brief ¶¶ i page 20. A second lawsuit can proceed with similar claims as presented in an earlier, dismissed suit, when the second suit has sufficiently new facts. With the right new facts, res judicata does not bar that second suit. The proceedings were not conducted before an impartial hearing officer, no witnesses testified under oath; A transcript of a court record was created, the verbatim, official or certified record of all proceedings that transpired in the trial court. The

IV. This Court should grant the petition for rehearing en banc because the Panel's opinion contradicts Supreme Court and Ninth Circuit precedent.

Transcript must also be taken by a court reporter. A Supreme Court explained more than 50 years ago in *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955), *res judicata* does not bar a suit, even if it involves the same course of wrongful conduct as alleged earlier, so long as the suit alleges new facts or a worsening of the earlier conditions. That is precisely the case here.

1. The court erred when it refuse to redress the state and federal issues

Material facts were overlooked in the state, federal and bankruptcy court. Constitutional Standards: Injury in Fact, Causation, and Redressability.—Although the Court has been inconsistent, it has now settled upon the rule that, “at an irreducible minimum,” the constitutional requisites under Article III for the existence of standing are that the appellants' must personally have: 1) suffered some actual or threatened injury; 2) that injury can fairly be traced to the challenged action of the defendant; and 3) that the injury is likely to be redressed by a favorable decision. Unripe claims

cannot later serve as a basis for res judicata. *Rawe v. Liberty Mut. Fire Ins. Co.*, 462 F.3d 521, 529–30 (6th Cir. 2006).

The appellants were denied the right of a jury trial as seen in informal brief ¶¶ j page 21. In the reply brief it's clear that fraud on the court exist in ¶¶ i page 19. Appellants need protection they pay by money gram/cashiers check because that's the only way to have proof of mortgage payment every month (*Walter D Shaw Jr v. Specialized Loan Servicing LLC*, 5:2014cv00783) as stated in opening brief ¶¶ 4 pages 30.

There is no statute of limitations for bringing a fraud upon the court claim. *Hazel-Atlas*, 322 U.S. at 244. As a circuit court has explained, "a decision produced by fraud on the court is not in essence a decision at all and never becomes final." *Kenner v. Comm'r of Internal Revenue*, 387 F.2d 689,691 (7th Cir.1968).

2. The court Erred because if it could had been barred by claim preclusion it could not affect every defendant

In judicial proceedings, claim preclusion only applies to adverse parties, it does not apply to co-parties (ex: a party that has been joined via Federal Rule of Civil Procedure 19 or Federal Rule of Civil Procedure 20) as seen in ¶¶ j page 20. Only if the co-parties

were a part of the previous suit or could have been but all were not. SLS, BOA, U.S Bank were not a part of the state court case and the issues at hand could not be litigated because the issues did not exist. The Res judicata consists of four elements and in this case the four elements are not met. The error in order stated that SLS was a part of the state court 1-ER-20.

3. The district court failure to exercise discretion is itself an abuse of discretion.

Doing so would have served the interests of justice as well as conserving the resources of the court and its personnel. Holloway, supra, 242 Cal.App.4th at p. 14. The district judge faces a significant challenge in balancing his obligations to facilitate the ability of the self-represented litigant to be fairly heard and refrain from assuming the role of advocate, on the other. Holloway, supra, 242 Cal.App.4th at pp. 1433–1434.

4. The claims raised first time on a opening brief should be accepted in a pro se litigation

Submitting evidence for the first time in reply, and generally, evidence submitted for the first time in reply papers should be disregarded by the court" (OneWest Bank, FSB v. Simpson, 148 A.D.3d

920, 922, 49 N.Y.S.3d 523 [citations omitted]; see Wells Fargo Bank, N.A. v. Osias, 156 A.D.3d 942, 943–944, 68 N.Y.S.3d 115. Which took place in this case.

SLS, U.S Bank and Wells presented evidence as stated in the appellants reply brief that were never mentioned anywhere in the record up until now, U.S. Bank, N.A. v. Collymore, 68 A.D.3d 752, 754, 890 N.Y.S.2d 578), Standing was an issue in the bankruptcy court but the issue was never addressed as seen in 3-ER-811 and in the district court 2-FER-359.

However, neither defendants besides U.S Bank and delayed filing of note transfer way after the commencing of the case as seen in 1-FER-259-261, which was filed on 10/14/2020 way after the commencement date (see Deutsche Bank Natl. Trust Co. v. Haller, 100 A.D.3d 680, 682, 954 N.Y.S.2d 551 ; HSBC Bank USA v. Hernandez, 92 A.D.3d 843, 844, 939 N.Y.S.2d 120), nor the foundational knowledge required to admit such factual details under the business records exception to the hearsay rule (see CPLR 4518[a] ; HSBC Mtge. Servs., Inc. v. Royal, 142 A.D.3d 952, 954, 37 N.Y.S.3d 321 ; Deutsche Bank

Natl. Trust Co. v. Brewton, 142 A.D.3d at 685, 37 N.Y.S.3d 292) & Bay Holdings, LLC v Albanese, 146 AD3d 849, 851-852 [2017].

A. SLS and U.S Bank delayed filing dated 10/15/2020 FER-259-261. SLS filed the Assignment of Deed of Trust, should have been filed no longer than 30 days from the bill of sale, took place on 10/18/2019 6-ER-1615 as stated in reply brief ¶¶ d page 20.

B. Wells states a new defense in their reply, In 1-ER-109, this document does not show that Wells was the servicer on the loan. Wells has no legal evidence in the record informing the court nore the appellants that they were the servicer only on the loan, (defense answer page 1).

5. Error in decision concerning rule 8

The Court of Appeals' departure from the liberal pleading standards set forth by Rule 8(a)(2) is even more pronounced in this particular case because petitioner has been proceeding, from the litigation's outset, without counsel. A document filed pro se is "to be liberally construed," Estelle [v. Gamble], 429 U.S. [97] at106, 97 S.Ct. 285, and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers," *ibid.*(internal quotation marks omitted). Cf. Fed. Rule Civ. Proc. 8(f) (" All pleadings shall be so construed as to do substantial

justice") & Court opinions for Erickson v. Pardus, 127 S. CT. 2197, 551
US 89 (2007).

Conclusion

For the panel's opinion to be established as case law, every consumer who has been victimized by their mortgager would have no secure remedy for help or proper relief. The constitution demands more. For the foregoing reasons, Appellants Frank Deville and Dee Deville., respectfully request that this Court grant their request for a rehearing rehearing en banc. and settle these important questions of federal law.

Date: January 8, 2022

Respectfully submitted,

/s/ Frank Deville

/s/ Dee Deville

Frank Deville

Dee Deville

Po Box 2042

Glendora Ca 91740

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 15. Certificate of Service for Electronic Filing

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form15instructions.pdf>

9th Cir. Case Number(s)

I hereby certify that I electronically filed the foregoing/attached document(s) on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

Service on Case Participants Who Are Registered for Electronic Filing:

I certify that I served the foregoing/attached document(s) via email to all registered case participants on this date because it is a sealed filing or is submitted as an original petition or other original proceeding and therefore cannot be served via the Appellate Electronic Filing system.

Service on Case Participants Who Are NOT Registered for Electronic Filing:

I certify that I served the foregoing/attached document(s) on this date by hand delivery, mail, third party commercial carrier for delivery within 3 calendar days, or, having obtained prior consent, by email to the following unregistered case participants (list each name and mailing/email address):

Description of Document(s) (required for all documents):

PETITION FOR REHEARING/AND PETITION FOR REHEARING EN BANC
Declaration of Appellants/Rehearing Petition/For Re hearing en Banc

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

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CERTIFICATE OF COMPLIANCE WITH RULE 32(A)

I am the self-represented party. We certified that pursuant to Circuit Rule 35-1 or 40-1, the attached petition for panel rehearing/petition for rehearing en banc/response to petition is prepared in a formate, typeface, and type style that complies. Certificate of Compliance with Type-Volume Limitations, Typeface Requirements, and Type Style Recommendations.

1. This petition complies with the type-volume limitation of Fed. R. App. P. 35(b)(2) because this brief contains 3,780 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

3. The pro se litigant elects to file a form from brief pursuant to Circuit Rule 28-1
Allowing the petition for panel rehearing or for rehearing en banc need not comply with Fed. R. p. 32.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in Century Schoolbook font, a proportionally spaced typeface using Microsoft Word, in fourteen point font size and in plain, roman style.

/s/ Frank Deville
Frank Deville

/s/ Dee Deville
Dee Deville

EXHIBIT A

FILED

NOT FOR PUBLICATION

JAN 27 2022

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANK DEVILLE; DEE ANETIONETTE
DEVILLE,

No. 20-56328

Plaintiffs-Appellants,

D.C. No. 2:20-cv-05576-JGB-E.

v.

MEMORANDUM*

SPECIALIZED LOAN SERVICING LLC,
Individually and as Servicing agent for Towd
Point Mortgage trust 2020-1; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Central District of California
Jesus G. Bernal, District Judge, Presiding

Submitted January 19, 2022**

Before: SILVERMAN, CLIFTON, and HURWITZ, Circuit Judges.

Frank Deville and Dee Anetionette Deville appeal pro se from the district court's judgment dismissing their action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for

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

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

failure to comply with the pleading requirements of Federal Rule of Civil Procedure 8. *Pickern v. Pier 1 Imports (U.S.), Inc.*, 457 F.3d 963, 968 (9th Cir. 2006). We affirm.

The district court properly dismissed plaintiffs' action because, despite being granted an opportunity to amend, plaintiffs' operative amended complaint failed to comply with Rule 8. *See* Fed. R. Civ. P. 8(a)(2) (a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief"); *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996) (a complaint that is "argumentative, prolix, replete with redundancy, and largely irrelevant" fails to comply with Rule 8); *Nevijel v. N. Coast Life Ins. Co.*, 651 F.2d 671, 674 (9th Cir. 1981) (a complaint that is "verbose, confusing and conclusory" violates Rule 8).

The district court did not abuse its discretion by granting defendants' requests for judicial notice. *See Harris v. County of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012) (explaining that "documents on file in federal or state courts" are properly the subject of judicial notice); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (standard of review).

The district court did not abuse its discretion by denying further leave to amend because amendment would have been futile, as the district court correctly concluded plaintiffs' claims were barred by claim preclusion. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth

standard of review and explaining that leave to amend may be denied when amendment would be futile); *Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1072 (9th Cir. 2008) (“[T]he district court’s discretion to deny leave to amend is particularly broad where plaintiff has previously amended the complaint.” (citation and internal quotation marks omitted)).

We reject as without merit plaintiffs’ contentions that the district court erred by denying their motion to consolidate and motion to alter the judgment.

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

AFFIRMED.

United States Court of Appeals for the Ninth Circuit

Office of the Clerk
95 Seventh Street
San Francisco, CA 94103

Information Regarding Judgment and Post-Judgment Proceedings

Judgment

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)

Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)

(1) A. Purpose (Panel Rehearing):

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - ▶ A material point of fact or law was overlooked in the decision;
 - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Purpose (Rehearing En Banc)

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- See Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- A response, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or response must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.

- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

Petition for a Writ of Certiorari

- Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send an email or letter **in writing within 10 days** to:
 - ▶ Thomson Reuters; 610 Opperman Drive; PO Box 64526; Eagan, MN 55123 (Attn: Maria Evangelista (maria.evangelista@tr.com));
 - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 10. Bill of Costs

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form10instructions.pdf>

9th Cir. Case Number(s)

Case Name

The Clerk is requested to award costs to *(party name(s))*:

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EXHIBIT B

20-56328

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Frank Deville & Dee Deville
Plaintiffs-Appellants,

v.

Specialized Loan Servicing LLC, et al.
Defendants-Appellees,

On Appeal from the United States District Court
for the Central District of California

**APPELLANT'S EXCERPTS OF RECORD
INDEX VOLUME**

Frank Deville
Dee Deville
Po Box 2042
Glendora California 91740

20-56328

IN THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

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| 133 | 9/30/20 | Declaration to support the motion | 3 | ER-702-ER-705 |
| 133 | 9/30/20 | Attached document: Docket Summary history | 3 | ER-706-ER-725 |
| 135 | 10/5/20 | Amended Notice of Appeal | 3 | ER-726-ER-754 |
| 163 | 10/15/20 | Order/corrected motion rule 60 | 3 | ER-755-ER-759 |
| 164 | 10/15/20 | Order on first notice of appeal | 3 | ER-760 |
| 166 | 10/19/20 | Reply opposition for BOA | 3 | ER-761-ER-823 |
| 166 | 10/19/20 | Exhibit A Return Mail by BOA | 3 | ER-788-ER-789 |
| 166 | 10/19/20 | Exhibit B Letter from BOA to Inform Transfer of Service | 3 | ER-791 |
| 166 | 10/19/20 | Exhibit C Transfer of Claim to US Bank Servicing Agent SLS | 3 | ER-793 |
| 166 | 10/19/20 | Exhibit D Regular Payment \$910 10/9/2019 Never Credited to Account | 3 | ER-795 |
| 166 | 10/19/20 | Exhibit E Specialized Loan Servicing Notice of Servicing Transfer SLS | 3 | ER-797- ER-798 |
| 166 | 10/19/20 | Exhibit F Short Form Deed of Trust BOA/Not Proper for US Bank | 3 | ER-800- ER-809 |
| 166 | 10/19/20 | Exhibit G Declaration of Appellants Clarity on Who Owns the Loan | 3 | ER-811- ER-812 |

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| 166 | 10/19/20 | Exhibit H Order Confirming Chapter 13 Plan | 3 | ER-814-ER-815 |
| 166 | 10/19/20 | Exhibit I Notice of Mortgage Payment Change of \$274.31 BOA | 3 | ER-817-ER-819 |
| 166 | 10/19/20 | Exhibit J Notice of Mortgage Payment Change \$894.95 BOA | 3 | ER-821-ER-823 |
| 170 | 10/22/20 | Motion for leave to amend complaint | 3 | ER-824-ER-1046 |
| 170 | 10/22/20 | Attached as Exhibit A Fourth Amended Complaint | 3 4 | ER-837-ER-956 |
| VOLUME 4 OF 7 | | | | |
| 170 | 10/22/20 | Exhibit to the amended complaint: Exhibit A: Amended Chapter 13 Plan | 4 | ER-958-ER-965 |
| 170 | 10/22/20 | Exhibit B: Proof of Claim Wells | 4 | ER-967-ER-996 |
| 170 | 10/22/20 | Exhibit C Wells Fargo release agreement | 4 | ER-998-ER-1002 |
| 170 | 10/22/20 | Exhibit D Declaration of Wells concerning the proof of claim | 4 | ER-1004-ER-1006 |
| 170 | 10/22/20 | Exhibit E: Deed of Trust (Wells) have no indorsement | 4 | ER-1022-ER-1025 |
| 170 | 10/22/20 | Exhibit F: Wells JN of illegitimate deed | 4 | ER-958-ER-965 |
| 170 | 10/22/20 | Exhibit G Loan Mod. Denial Letter forcing appellants to wait 36 days they would have been able to do a non-judicial foreclosure. | 4 | ER-1027-ER-1029 |

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|-------|----------|--|---|-----------------|
| 170 | 10/22/20 | Exhibit H Wells bank statement that reveals the how wells were intimidating the appellants by reversing numerous payments | 4 | ER-1031-ER-1032 |
| 170 | 10/22/20 | Exhibit I Adversary revealing that Wells attorney had appeared by phone at the hearing and should have been considered served on 10/26/2017. appellants were pro se litigants . | 4 | ER-1034-ER-1035 |
| 170 | 10/22/20 | Exhibit J Adversary revealing that Wells attorney had appeared by phone at the hearing and should have been considered served on 3/29/2018. | 4 | ER-1037-ER-1038 |
| 170 | 10/22/20 | Exhibit K Adversary revealing that Wells attorney had appeared by phone at the hearing and should have been considered served on 5/3/2018 | 4 | ER-1040 |
| 170 | 10/22/20 | Exhibit L Adversary cover | 4 | ER-1042 |
| 170 | 10/22/20 | Exhibit M Declaration of postpetition preconfirmation for mortgage payment. | 4 | ER-1044-ER-1046 |
| 170-1 | 10/22/20 | Sub Vol. # 1 | 4 | ER-1047-ER-1294 |
| 170-1 | 10/22/20 | EXHIBIT N: WELLS CASHIER STAMP | 4 | ER-1050 |
| 170-1 | 10/22/20 | EXHIBIT O: AAMES HOME LOAN | 4 | ER-1052-ER-1057 |
| 170-1 | 10/22/20 | EXHIBIT P: TRANSFER OF CLAIM | 4 | ER-1059 |
| 170-1 | 10/22/20 | EXHIBIT Q: WELLS; STATEMENT | 4 | ER-1061 |
| 170-1 | 10/22/20 | EXHIBIT R: WELLS; LATE PAYMENTS (THAT WERE NOT) | 4 | ER-1063-ER-1070 |

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| 170-1 | 10/22/20 | EXHIBIT S: WELLS LETTER LATE PAYMENT | 4 | ER-1072-ER-1074 |
| 170-1 | 10/22/20 | EXHIBIT T: LETTER FROM WELLS | 4 | ER-1076-ER-1078 |
| 170-1 | 10/22/20 | EXHIBIT U: WELLS; COVER superior crt. | 4 | ER-1080 |
| 170-1 | 10/22/20 | EXHIBIT V: WELLS; Decision/superior crt. | 4 | ER-1082-ER-1085 |
| 170-1 | 10/22/20 | EXHIBIT W: BOA deed of trust | 4 | ER-1087-ER-1095 |
| 170-1 | 10/22/20 | EXHIBIT X: purchase agreement | 4 | ER-1097-ER-1103 |
| 170-1 | 10/22/20 | EXHIBIT Y: NOTE ADJ. RATE | 4 | ER-1105-ER-1122 |
| 170-1 | 10/22/20 | EXHIBIT Z: consent order SLS | 4 | ER-1124-ER-1156 |
| 170-1 | 10/22/20 | EXHIBIT AA:letter/wells non pay | 4 | ER-1158 |
| 170-1 | 10/22/20 | EXHIBIT BB: letter/wells non pay | 4 | ER-1158 |
| 170-1 | 10/22/20 | EXHIBIT CC:wells;payments MADE | 4 | ER-1160- ER-1163 |
| 170-1 | 10/22/20 | EXHIBIT DD: APPRAISAL WELLS | 4 | ER-1165- ER-1167 |
| 170-1 | 10/22/20 | EXHIBIT EE: SLS cashiers CHECK | 4 | ER-1169- ER-1182 |
| 170-1 | 10/22/20 | EXHIBIT FF: emails wells | 4 | ER-1184- ER-1187 |
| 170-1 | 10/22/20 | EXHIBIT GG: wells default summary | 4 | ER-1189 |
| 170-1 | 10/22/20 | EXHIBIT HH:/payment/reversals | 4 | ER-1191- ER-1192 |
| 170-1 | 10/22/20 | EXHIBIT II: issues release/agrmt | 4 | ER-1194- |
| 170-1 | 10/22/20 | EXHIBIT JJ: req info for payment | 4 | ER-1196-ER-1198 |
| 170-1 | 10/22/20 | EXHIBIT KK: on time payments | 4 5 | ER-1200-ER-1208 |

VOLUME 5 OF 7

| | | | | |
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| 170-1 | 10/22/20 | EXHIBIT LL: DECLARATION OF DEFAULT WELLS | 5 | ER-1210-ER-1225 |
| 170-1 | 10/22/20 | EXHIBIT MM: WELLS; STATEMENT PAYMENTS | 5 | ER-1227 |
| 170-1 | 10/22/20 | EXHIBIT NN: WELLS CONSENT ORDER | 5 | ER-1229- ER-1233 |
| 170-1 | 10/22/20 | EXHIBIT OO: BOA CONSENT ORDER | 5 | ER-1235- ER-1241 |
| 170-1 | 10/22/20 | EXHIBIT PP: DECLARATION OF CONCERN 10/17/2019 | 5 | ER-1243- ER-1245 |
| 170-1 | 10/22/20 | EXHIBIT QQ: BOA TAXES 1/2019 | 5 | ER-1247 |
| 170-1 | 10/22/20 | EXHIBIT RR: SLS TAXES 1/13/2020 | 5 | ER-1249- ER-1250 |
| 170-1 | 10/22/20 | EXHIBIT SS: STATEMENT SLS | 5 | ER-1252- ER-1256 |
| 170-1 | 10/22/20 | EXHIBIT TT: LETTER ABOUT OWNERSHIP | 5 | ER-1258 |
| 170-1 | 10/22/20 | EXHIBIT UU: LETTER OF SERVICE TRANSFER SLS | 5 | ER-1260- ER-1261 |
| 170-1 | 10/22/20 | EXHIBIT VV: Transfer of claim | 5 | ER-1263-ER-1264 |
| 170-1 | 10/22/20 | EXHIBIT WW: Proof of Claim | 5 | ER-1266-ER-1270 |
| 170-1 | 10/22/20 | EXHIBIT XX: Reg. Payment Cashiers Check | 5 | ER-1272-ER-1273 |
| 170-1 | 10/22/20 | EXHIBIT YY: Modification Agreement | 5 | ER-1275-ER-1276 |
| 170-1 | 10/22/20 | EXHIBIT ZZ: BOA Letter | 5 | ER-1278-ER-1279 |
| 170-1 | 10/22/20 | EXHIBIT AAA: Letter to BOA conductors | 5 | ER-1281 |

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| 170-1 | 10/22/20 | EXHIBIT BBB: USPS tracking | 5 | ER-1283-ER-1284 |
| 170-1 | 10/22/20 | EXHIBIT CCC: Letter from debtors | 5 | ER-1286 |
| 170-1 | 10/22/20 | EXHIBIT DDD: Wells bank receipt | 5 | ER-1288 |
| 170-1 | 10/22/20 | EXHIBIT EEE: SLS letter | 5 | ER-1290-ER-1291 |
| 170-1 | 10/22/20 | EXHIBIT FFF: | 5 | ER-1292 |
| 170-1 | | EXHIBIT GGG: Money Gram | | ER-1293-ER-1294 |
| 170-2 | 10/22/20 | Sub. Vol. # 2 | 5 | ER-1295- |
| 170-2 | 10/22/20 | EXHIBIT HHH: NOTICE OF PAYMENT CHANGE BOA | 5 | ER-1298-ER-1302 |
| 170-2 | 10/22/20 | EXHIBIT III: NOTICE OF PAYMENT CHANGE BOA | 5 | ER-1304-ER-1306 |
| 170-2 | 10/22/20 | EXHIBIT JJJ: WELLS CASHIERS CHECK FOR SLS | 5 | ER-1308 |
| 170-2 | 10/22/20 | EXHIBIT KKK: SUMMARY RESENT BANKRUPTCY | 5 | ER-1310-ER-1338 |
| 170-2 | 10/22/20 | EXHIBIT LLL: TRANSCRIPT OF HEARING | 5 | ER-1340-ER-1346 |
| 170-2 | 10/22/20 | EXHIBIT MMM: ADR | 5 | ER-1348 |
| 170-2 | 10/22/20 | EXHIBIT NNN: DELAYED RESPONSE TO ORDER | 5 | ER-1350-ER-1356 |
| 170-2 | 10/22/20 | EXHIBIT OOO: notice of appeal OPPOSITION TO TRANSFER SLS | 5 | ER-1358-ER-1360 |
| 170-2 | 10/22/20 | EXHIBIT PPP: LETTER REQUEST SLS | 5 | ER-1362-ER-1363 |
| 70-2 | 10/22/20 | EXHIBIT QQQ: SUMMARY OF PLAN PAYMENTS | 5 | ER-1364-ER-1370 |
| 170-2 | 10/22/20 | EXHIBIT RRR: | 5 | ER-1372-ER-1373 |

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| | | BANKRUPTCY STAY ORDER | | |
| 170-2 | 10/22/20 | EXHIBIT SSS: State court WELLS; JN ATTORNEY 4/30/2018 | 5 | ER-1375-ER-1378 |
| 170-2 | 10/22/20 | EXHIBIT TTT: Wells/motion to dismiss BK crt | 5 | ER-1380-ER-1382 |
| 170-2 | 10/22/20 | EXHIBIT UUU: WELLS; STATEMENT | 5 | ER-1384-ER-1385 |
| 170-2 | 10/22/20 | EXHIBIT VVV: POST PETITION PAYMENTS | 5 | ER-1387-ER-1389 |
| 170-2 | 10/22/20 | EXHIBIT WWW: ESCROW SHORTAGE \$600.00 | 5 | ER-1391-ER-1392 |
| 170-2 | 10/22/20 | EXHIBIT XXX: STATEMENT WELLS 10/17/2019 | 5 | ER-1392 |
| 170-2 | 10/22/20 | EXHIBIT YYY: STATEMENT 2/14/2020 | 5 | ER-1396 |
| 170-2 | 10/22/20 | EXHIBIT ZZZ: CASHIERS CHECK SLS 11/2/2019 | 5 | ER-1398 |
| 170-2 | 10/22/20 | EXHIBIT AAAA: 1200.00 ESCROW PAYMENT | 5 | ER-1400 |
| 170-2 | 10/22/20 | EXHIBIT BBBB: MEDICAL BILLS | 5 | ER-1402-ER-1405 |
| 170-2 | 10/22/20 | EXHIBIT CCCC: STATEMENT FOR 1200 ESCROW | 5 | ER-1407 |
| 170-2 | 10/22/20 | EXHIBIT DDDD: ADVERSARY SUMMARY | 5 | ER-1409-ER-1413 |
| 170-2 | 10/22/20 | EXHIBIT EEEE: SCHEDULE 1 ON PAGE 20 | 5 | ER-1415-ER-1422 |
| 170-2 | 10/22/20 | EXHIBIT FFFF: STATEMENT WELLS POST PETITION | 5 | ER-1424-ER-1425 |

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| 170-2 | 10/22/20 | EXHIBIT GGGG: 1400.00 ESCROW PAYMENT | 5 | ER-1427 |
| 170-2 | 10/22/20 | EXHIBIT HHHH: WELLS; STATEMENT | 5 | ER-1429-ER-1430 |
| 170-2 | 10/22/20 | EXHIBIT IIII: WELLS CREDIT REPORT ISSUES | 5 | ER-1432 |
| 170-2 | 10/22/20 | EXHIBIT JJJJ: Wells consent order | 5 | ER-1434-ER-1464 |
| 170-2 | 10/22/20 | EXHIBIT KKKK: WELLS; SETTLE/agreement | 5 | ER-1466-ER-1480 |
| VOLUME 6 OF 7 | | | | |
| 171 | 10/22/20 | Opposition for sls/us bank | 5-6 | ER-1481-ER-1659 |
| 171 | 10/22/20 | Declaration in support of motion | 6 | ER-1509 |
| 171 | 10/22/20 | Exhibit A: summary history docket | 6 | ER-1513-ER-1519 |
| 171 | 10/22/20 | Exhibit B: deed of trust BOA | 6 | ER-1521-ER-1529 |
| 171 | 10/22/20 | Exhibit C:notice of payment change | 6 | ER-1531-ER-1533 |
| 171 | 10/22/20 | Exhibit D:proof of claim BOA | 6 | ER-1535-ER-1539 |
| 171 | 10/22/20 | Exhibit E:declaration;concern pymt | 6 | ER-1541-ER-1542 |
| 171 | 10/22/20 | Exhibit F:order to dismiss complaint | 6 | ER-1544-ER-1547 |
| 171 | 10/22/20 | Exhibit G:SLS payments | 6 | ER-1549-ER-1564 |
| 171 | 10/22/20 | Exhibit H: consent order sls | 6 | ER-1566-ER-1597 |
| 171 | 10/22/20 | Exhibit I: hearing transcripts BK | 6 | ER-1599-ER-1605 |
| 171 | 10/22/20 | Exhibit J:tax document sls | 6 | ER-1607-ER-1608 |
| 171 | 10/22/20 | Exhibit K:transaction payments sls | 6 | ER-1610 |
| 171 | 10/22/20 | Exhibit L:notice of payment change | 6 | ER-1612-ER-1613 |
| 171 | 10/22/20 | Exhibit M:transfer of claim (boa) | 6 | ER-1615 |

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| 171 | 10/22/20 | Exhibit N:transfer of claim(us bank) | 6 | ER-1617 |
| 171 | 10/22/20 | Exhibit O:notice of appearance/sls | 6 | ER-1619-ER-1624 |
| 171 | 10/22/20 | Exhibit P:cashiers check ment for sls | 6 | ER-1626 |
| 171 | 10/22/20 | Exhibit Q:BK status report 3/29/19 | 6 | ER-1628 |
| 171 | 10/22/20 | Exhibit R:BK status report 7/22/20 | 6 | ER-1630 |
| 171 | 10/22/20 | Exhibit S:notice for adr program | 6 | ER-1632 |
| 171 | 10/22/20 | Exhibit T:out of state attorney(sls) | 6 | ER-1634 |
| 171 | 10/22/20 | Exhibit U:notice of sale (sls) | 6 | ER-1636 |
| 171 | 10/22/20 | Exhibit V:payment history sls | 6 | ER-1638-ER-1643 |
| 171 | 10/22/20 | Exhibit W:amended chapter 13 plan | 6 | ER-1645-ER-1652 |
| 171 | 10/22/20 | Exhibit X:letter payment concern sls | 6 | ER-1654 |
| 171 | 10/22/20 | Exhibit Y:letter from sls | 6 | ER-1656-ER-1657 |
| 171 | 10/22/20 | Exhibit Z:transaction summary | 6 | ER-1659 |
| 172 | 10/23/20 | Wells reply for got to sign the proof of service | 6 | ER-1660-ER-1671 |
| 172 | 10/23/20 | Attached proof of service | 6 | ER-1671 |
| 176 | 10/26/20 | Opposition to wells | 6 | ER-1672-ER-1714 |
| 176 | 10/26/20 | Exhibit A-Release agreement | 6 | ER-1695-ER-1689 |
| 176 | 10/26/20 | Exhibit B-Declaration in support motion | 6 | ER-1691-ER-1693 |
| 176 | 10/26/20 | Exhibit C-Wells cashed cashiers check that was meant for SLS | 6 | ER-1695 |
| 176 | 10/26/20 | Exhibit D-Order confirm. chapter 13 plan | 6 | ER-1697-ER-1698 |

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|---------------|----------|---|---|---------------------|
| 176 | 10/26/20 | Exhibit E-Deed of trust | 6 | ER-1700- ER-1712 |
| 176 | 10/26/20 | Exhibit F-Minutes of hearing for adversary | 6 | ER-1714 |
| 177 | 10/27/20 | Opposition to BOA Motion | 6 | ER-1718-ER-1748 |
| 177 | 10/27/20 | Exhibit A-Chapter 13 plan confirmation | 6 | ER-1725-ER-1726 |
| 177 | 10/27/20 | Exhibit B Notice of payment change 1/9/17 | 6 | ER-1728-ER-1730 |
| 177 | 10/27/20 | Exhibit C Notice of mortgage change 8/16/19 | 6 | ER-1732-ER-1734 |
| 177 | 10/27/20 | Exhibit D: Retuned mail by boa | 6 | ER-1736-ER-1737 |
| 177 | 10/27/20 | Exhibit E Short form deed of trust purchased on 3/6/20 and boa still has not made corrections. | 6 | ER-1739- ER-1748 |
| 180 | 10/30/20 | Opposition reply sls/us bank | 6 | ER-1749-ER-1759 |
| 180 | 10/30/20 | Exhibit A-Order for the dismissal of the bankruptcy appeal | 6 | ER-1761-ER-1764 |
| 180 | 10/30/20 | Exhibit B-Third amended complaint cover | 6 | ER-1766 |
| 180 | 10/30/20 | Exhibit C-Consent order sls | 6 | ER-1768-ER-1799 |
| VOLUME 7 OF 7 | | | | |
| 180 | 10/30/20 | Exhibit D - Transfer of claim from boa to us bank | 7 | ER-1802 |
| 180 | 10/30/20 | Exhibit E-Declaration of concerns about the loan | 7 | ER-1804- ER-1805 |
| 180 | 10/30/20 | Exhibit F-Letter to sls about payment concerns | 7 | ER-1807 |

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| 180 | 10/30/20 | Exhibit G-Cashiers check ment for sls but cashed by wells | 7 | ER-1809 |
| 180 | 10/30/20 | Exhibit H-Amended chapter 13 plan | 7 | ER-1811-ER-1818 |
| 180 | 10/30/20 | Exhibit I-Uş bank Transfer of claim from indentured trustee to trustee | 7 | ER-1820 |
| 180 | 10/30/20 | Exhibit J- Notice of sale of ownership sls | 7 | ER-1822-ER-1824 |
| 180 | 10/30/20 | Exhibit K- Deed of trust wells | 7 | ER-1826-ER-1840 |
| 180 | 10/30/20 | Exhibit L-Taxes for mortgage sls | 7 | ER-1841-ER-1843 |
| 180 | 10/30/20 | Exhibit M-Minutes of hearing bankruptcy appeal | 7 | ER-1845-ER-1851 |
| 180 | 10/30/20 | Exhibit N-Bankruptcy status report | 7 | ER-1853 |
| 180 | 10/30/20 | Exhibit O-Notice of appearance sls | 7 | ER-1855-ER-1860 |
| 180 | 10/30/20 | Exhibit P Sls held on to payment deposited and did not clear even after 11/13/19 | 7 | ER-1862 |
| 180 | 10/30/20 | Exhibit Q-Payments made | 7 | ER-1864-ER-1879 |
| 189 | 11/20/20 | Order complaint dismissal | 7 | ER-1888-ER-1889 |
| 190 | 11/23/20 | reconsideration/dismissal | 7 | ER-1890-ER-1934 |
| 190 | 11/23/20 | declaration | | ER-1896 |
| 190 | 11/23/20 | Exhibit A-9TH CIR. history docket | 7 | ER-1900-ER-1901 |
| 190 | 11/23/20 | Exhibit B Order on bankruptcy appeal | 7 | ER-1903-ER-1912 |
| 190 | 11/23/20 | Exhibit C: Summary docket | 7 | ER-1914-ER-1934 |
| 190-1 | 11/23/20 | Notice for reconsideration | 7 | ER-1935-ER-1937 |
| 190-2 | 11/23/20 | Order on reconsideration | 7 | ER-1938-ER-1939 |

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|-------|----------|---|---|-----------------|
| 191 | 12/2/20 | Denied order rule 59(e) | 7 | ER-1940-ER-1941 |
| 197-3 | 12/16/20 | Statement of the issues | 7 | ER-1942-ER-1961 |
| 197-3 | 12/16/20 | Declaration to support motion | 7 | ER-1957 |
| 197-4 | 12/16/20 | Vol. 1 | 7 | ER-1962-ER-1963 |
| 197-5 | 12/16/20 | Vol. 2 | 7 | ER-1964-ER-1965 |
| 201 | 1/11/21 | Amended Notice of Appeal | 7 | ER-1966-ER-1982 |
| 203 | 2/17/21 | Order on reconsideration/en banc | 7 | ER-1983 |
| 204 | 2/25/21 | Mandate | 7 | ER-1984 |
| 205 | 4/16/21 | Order on emergency motion | 7 | ER-1985 |
| 18-1 | 4/16/21 | Petition for Rehearing En Banc | 7 | ER-1986-ER-2011 |
| | 5/10/21 | Summary docket | 7 | ER-2012-ER-2033 |
| | 5/14/21 | Proof of service for wells adversary | 7 | ER-2034-ER-2035 |
| | 5/15/21 | Ninth Circuit Summary Docket | 7 | ER-2036-ER-2042 |
| | 5/15/21 | State Appellate Courts Docket History | 7 | ER-2043-ER-2046 |
| | 5/16/21 | Docket summary for supreme court | 7 | ER-2047-ER-2049 |
| | 5/16/21 | Attachment : A Petition/rehearing | 7 | ER-2048 |
| | 5/16/21 | Attm: B petition for writ of certiorari | 7 | ER-2049 |

EXHIBIT C

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Frank Daville & Dee Daville
Appellant(s),

9th Cir. Case No. 20-56328

vs.

District Court or
BAP Case No. 2:20-cv-05576-JA

Specialized Loan Servicing LLC, et AL
Appellee(s).

APPELLANT'S INFORMAL REPLY BRIEF

(attach additional sheets as necessary, up to a total of 25 pages including this form)

For the optional reply brief in response to appellee's answering brief(s) only.

List each issue or argument raised in the answering brief to which you are replying. Do not repeat arguments from your opening brief or raise new arguments except in response to arguments made in the answering brief(s).

Issue/Argument Number 1 *more details attached:*
What is the first argument in the answering brief to which you are replying?

*Res Judicata does not bar claims
Proclusion does not Bar claims*

What is your reply to that argument?

Res judicata does not bar or apply to claims that were not ripe at the time the first suit was filed. Rowe v. Liberty v. Liberty Mut. Fire Ins. Co., 462, F 3d 521, 529. 30 (6th Cir. 2006). The violation of the stay were of course, unknown in 2017. Res judicata cannot bar claims about transactions or occurrences that did not exist in 2017. District Court failed to mention claims related to newly alleged facts of this civil conspiracy scheme, Actual Fraud, COV. of good faith, TILending, Civil contempt, Professional codes, Breach of Fiduciary duties, Intentional, In diction with Appeal of the Appellants, Violation of 164

9th Cir. Case No. 20-56328

Page 2

Issue/Argument Number 2

What is the second argument in the answering brief to which you are replying?

Did the Appellants state a claim

What is your reply to that argument? *The appellants did state a claim for all 9 claims for all the Appellees For: Fraud 3-ER-864, Civil Conspiracy 3-ER-871, Good Faith 3-ER-894 thru 4-ER-916, Civil Contempt 4-ER-916, Breach 4-ER-923, 1641(G) 4-ER-947, Professional Code 4-ER-920, Truth & Lending 4-ER-907, Intentional Infliction 4-ER-933. The TAC Ignored material facts.*

All this Ignored more details attached:

Issue/Argument Number 3

What is the third argument in the answering brief to which you are replying?

Their ~~are~~ new facts but ignored By all the Appellees and District court which they failed to mention claims related to Newly alleged facts of all claims related to the Civil conspiracy.

What is your reply to that argument?

New facts exist, the New facts amounted to an independent taking based on the "revelation-years" after the first suit was dismissed. The Second Suit was unripe and not legally cognizable at that time. Because necessary facts as stated in the complaint for all Appellees were unknown.

more details attached to this document:

Frank Deville & Dee Deville

Name

P.O. Box 2042

Glendora, Ca. 91740

Address

/s/ Frank Deville & Dee Deville

Signature

7/2/2021

Date

No. 20-56328

**United States Court Of Appeals For
The Ninth Circuit**

FRANK DEVILLE,et al.,

Plaintiffs and Appellants,

vs.

SPECIALIZED LOAN SERVICING LLC,et al.,

Defendants and Appellees. Appeal from United States District
Court, Central District of California, Case No. 20-cv-05576 JGB
Hon. Jesus G. Bernal, United States District Judge

Appellants' Reply Brief

Frank Deville
Dee Deville
Po Box 2042
Glendora Ca 91740
(909) 921- 6499

I. JURISDICTIONAL STATEMENT issues

Answer:

This court has federal jurisdiction questions under 28 U.S.C. § 1331 & Jurisdiction under 28 U.S.C. § 1291. Notice of appeal on 9/30/2020 dkt 132 order dkt 205 10/15/2020 and on a second appeal 12/15/2020 dkt 193 still pending in this court.

This appeal is from a final judgement that became final while an en banc review pending in the ninth Circuit court dkt 189. The prior Appeal was from a final judgement that the rulings consciously decided an issue separate from the merits of the case and would be effectively unreviewable after final judgement. *Cohen v. Beneficial Indus. Loan Corp.*, 337 u.s 541, 546(1949), such rulings are deemed 'final within the meaning of 28 U.S.C §1291. The appellants filed a stay in the case 9/30/2020 133 denied dkt 163.

This appeal was dismissed for lack of jurisdiction on 10/15/2020 closed case #20-56030. A mandate was filed on 2/25/2021 dkt 204 and a request for emergency motion for was filed on 2/26/2021 dkt 16 for a stay, leave to and harassment from the appellees, while still pending in the ninth Circuit court with the opening brief due. Filed for review/en banc dkt 18 4/28/2021 on 4/28/2021 the appellants filed emergency motion for extension of time dkt 19. The appellants are pro se litigants and filed an informal brief on 5/17/2021 in the case.

Failure to disclose constituted fraudulent concealment of the cause of action tolling the statute if there is one that exists but thus far none has been alleged so the rights to that defence has been waived. Fraudulent concealment doctrine would permit the statute of limitations to be tolled in a TIL action if scienter were alleged, which it was 3-ER-872-876. The appellants did not fail to remedy the deficiencies as seen in 1-SER-172-289 but the appellants requested a leave to amend if the court was inclined to believe that it was necessary in its response to BOA 3-ER-629 and 3-ER-780. The

response to Wells 3-ER-657. The SAC did not fail as stated in BOA response 3-ER-780 for all claims for BOA, 3-ER-771 & 3-ER-773.

II. QUESTIONS PRESENTED as stated in the brief issue:

1. Did the district court erred when granting defendants motion to dismiss on 9/9/2020 and on 11/20/2020.
2. Did the district court violate the appellants due process rights by not considering the request for leave to Amended Complaint and was quickly dismissed.
3. Did the district court ignore the human rights of the appellants?
4. Did the bankruptcy court ignore the human rights of the appellants?
5. Did the State court ignore the human rights of the appellants?
6. Did the appellants receive a fair trial or not?
7. Is there fraud on the court?
8. Is there a reasonable question for review?
9. Did the courts violate appellants rights by failing to consider if there was a valid deed of trust on the property?
10. Did the courts ignore the appellants request for entry of default illegitimately?
11. Do conflicting federal laws exist?
12. Should ignorance and the inability to acquire proper counsel be the leading reason for defeat?
13. Should a legitimate merited case appellant's cry be ignored?
14. Are the appellees beyond accountability?
15. Parties in the state case according to 4-ER-1080
Wells Fargo and there servicing agents only
16. Parties in the bankruptcy appeal case.
Specialized loan servicing LLC only 5-ER-1360
17. Who are the Parties in the Adversary case.
Wells Fargo servicing company , Wells service there one loan according 4-ER-1042.

III STATEMENT AND SUMMARY OF THE CASE

Predatory lending benefits the lender and ignores or hinders the borrower's ability to repay the debt. These lending tactics often try to take advantage of a borrower's lack of understanding about loans, terms or finances.

Predatory lenders typically target minorities & the poor as seen in 4-ER-1105-1108. This loan began with predatory practices 1-SER-186 and without restrictions have continued even unto now and unless proper intervention follows our society as a whole will and is affected. The appellees consider the deed filed on 12/19/05 but according to the purchase deed the original deed was filed on 9/3/04 4-ER-1097. World Savings purchased the title from AAMES FER-266-284, the appellees and all of them failed to mention that important disclosure. On 11/30/2005 properly WS requested a deed of trust on 12/19/2005 4-ER-981 within the thirty days. The second was acquired by BOA on 10/4/2007 and recorded on 1/17/2008 4-ER-1087. In the SAC 1-SER-187 ¶ 22 the appellants made clear to the court their concerns about the deed.

The appellants filed loan mods, one accepted in 2009 by Wachovia in which the appellants did not know that the deed of trust was never filed therefore never endorsed or recorded with the proper endorsement at the Recorder's office, but they did approve a loan mod but change the name to Wells Fargo during the signing 5-ER-1275 which increase the maturity date from 2034 according to World Savings 4-ER-1105 to 2050 but wells denied several, one in 4-ER-1027 Bankruptcy forced filing was confirmed on 1/23/2017 6-ER-1697. The appellants filed their adversary on 7/25/2017 as stated in brief page 10 and amended 4-ER-1042 and filed for State Claim on 10/6/2017 2-ER-366 three months later before a decision was rendered. Apelled the state decision and decided on 10/4/2019 2-ER-447. The Adversary was dismissed on 5/3/2018 4-ER-1040 before the state court decision.

After Boa transferred services to a third party servicer, the applicant requested for clarification (1-ER-67 & 96) & 3-ER-811, because nothing was filed in the court but BOA returned mail and never responded 3-ER-788, as stated in the brief page Boa sent a letter but initially gave misguided information 3-ER-791. The

appellants filed for an objection to the transfer of claim not the proof of claim but the appellants rights were taken away to oppose because as stated in the brief section f. Page 15 a step was missing leaving the appellants without the option to oppose, no stay relief was filed in the bankruptcy court FER-2-31.

The appellants filed for an bankruptcy appeal 1/22/2020 denied on 10/30/2020 ,6-ER-1761 and the only *parties in the case were the appellants and Specialized Loan Servicing LLC.*

A. Relevant Allegations and District Court Proceedings issues

Answer:

(1)In 1-ER-109, this document does not show that Wells was the servicer on the loan. Wells has no legal evidence in the record informing the court nore the appellants that they were the servicer only on the loan, on the deed of trust name World Savings as the title and endorsee on the loan. This statement should be excluded because it is new and never mentioned as a defense in any of their responses nore objected to that statement. (defense answer brief page 1 in the statement of the case). A letter was never sent stating that they were the servicer only but declared that they were the servicer and the title holder and nothing filed in bankruptcy court making such a change FER-2-31.

(2)The district court granted the defendants' motions to dismiss. Dkt. 125 & Dkt 189 but without any notice to correct before filing a dismissal.(3)The district court granted the defendants' motions to dismiss. Dkt. 125 and Dkt 193.(4)"Unless it is absolutely clear that no amendment can cure the defect...a pro se litigant is entitled to notice of the complaint deficiencies and as opportunity to amend prior to dismissal of the action. " Lucas v. Dept. of Corrections, 66 F .3d 245, 248 (9th Cir. 1985), as stated in the brief page 24. All nine claims did state a claim for wells and all of them, Viciendo v. New Horizons Computer Learning Ctr. of Columbus, 246 F. Supp. 2d 886, 907 (S.D. Ohio 2003)(a very narrow question: Have Plaintiffs sufficiently pleaded this claim? A brief look at the Complaint shows that they have). Before dismissal the appellants were not noticed of the deficiencies as seen in the brief page 23.(5)The appellees and all of them

conspired with one another making them all liable individually and simultaneously 7-ER-1952.(6)The second case does offer new procedural opportunities 3-ER-837 so does not apply, as it raises different issues.

The Earlier California Suit issues:

Answer:

(1)Rising from Wells state and federal violations 2-ER-384.(2)Parties include Wells Fargo N.A and their servicing agents only 4-ER-1080 and 7-ER-2043.(3)Wells by their own admittance was admitting to holding the title and as a servicing agent according to 2-ER-444. (4)Wells asserted new facts that were never raised in their earlier responses.(defense answer brief page 1 in the statement of the case).(5)Though some allegations may be similar, new and continuous allegations exist and the defendants in the case are not all the same. As stated in the brief. Even the state appeals court stated that appellants did not sue for breach of contract 2-ER-448.

i. The adversary decided on 5/3/2018 and state court decided on 10/4/2019

a. On 4/1/2020 Wells did not credit escrow payment timely Appellants paid payment according to the statement 5-ER-1391, timely on 3/15/2022 5-ER-1392.

b. On 5/5/20 Wells cashed a cashier's check made out to Specialized Loan Servicing LLC 4-ER-1050, Towd Point Master Funding Trust 2019-PM7 third party servicer. U.S Bank N.A as indenture Trustee. This was where they began their co-conspiracy participation.

c. When Wells put its stamp on the cashier's check admitting to their participation in the conspiracy scheme 7-ER-1952.

d. Wells have moved appellants' full payments back and forth between the principle only and applying it back toward a regular payment as seen in FER-271-277.

e. Wells and the appellees have caused the appellants to request for emergency filing for harassment on 7-ER-2004 on 2/26/2021 dkt 16 denied on 4/16/2021 dkt 177-ER-1985 and request for rehearing en banc on 4/28/2021 dkt 19 is pending in this court appellants requested a stay FER-181-247 in the case until the decision has been redecided en banc/rehearing .

1. Wells were robo calling FER-190 & FER-215, intimidating the appellants.
2. Boa sent threatening letters concerning taxes intimidating the appellants FER-187 & FER-201.

f. The most recent violation as earliest as May 19, 2021 was Wells filing in the bankruptcy court an official document with false information FER-177-179. By filing false information on official documents violating 15 U.S. Code § 1324c several times without any remorse.

Appellants did state a claim:

g. Boa: 3-ER-855-859, 3-ER-888-891, 4-ER-903-905, 4-ER-913-916, 4-ER-418, 4-ER-929-931, 4-ER-943-945 & 4-ER-948

h. Wells: 3-ER-859-860, 3-ER-876-885, 3-ER-898 thru 4-ER-903, 4-ER-907-911, 4-ER-917-918, 4-ER-921, 4-ER-925-927, 4-ER-936-941 & 4-ER-947.

6. Appellants never filed a lawsuit against BOA until the filing in the district court dated 6/23/2020 dkt 1.

7. For the appellants to receive a fair trial a review is necessary. Clear error of law is evident page 36 in the brief and in the statement of the issues 7-ER-1944. As stated also the appellants are victims of a crime 7-ER-1945.

B. Relevant Bankruptcy Proceedings issues:

Answer:

1. Appellants made it clear what were the issues in the bankruptcy proceedings 3-ER-861-863.
2. Wells Fargo were the only parties in the adversary case in the bankruptcy court as stated above.
3. Wells filed misleading information on an official document in the bankruptcy court 3-ER-877 ¶¶ 99. In the proof of Claim they informed the court that they were the creditor but if they were the servicing only they would have marked I am the creditor's authorized

agent 2-ER-410 but they did not. That statement should be excluded leaving them without proof of title as stated in the brief.

4. Wells are misleading the court that the deed of trust was obtained and secured by Wells Fargo (3-ER-854 ¶¶ 854) as their loan holder which is false according to the deed 4-ER-981, nowhere in that document entitles them as the holder.
5. Wells admitted that they are the servicer and creditor according to proof of claim 2-ER-411 .
6. No where in the history docket reports a change in title of the record. 5-ER-1310-1338 & FER-2-31.
7. Wells even admits that they were not the servicing company 5-ER-1380.
8. Appellants' allege that the Note in this case was never lawfully negotiated and endorsed to the Trust violating 18 U.S.C §§ 152 & 3571 as stated in the brief page 16 3-ER-852.
9. On page 2 appellees answer brief, they state that BOA arrears were paid but that was not true for BOA the arrearage amount was \$589.19 according to 1-ER-168 but was not paid until 3/6/2020 1-ER-187. BOA transferred claim on 2-ER-360, to Towd Point Master Funding Trust 2019-PM7, US Bank N.A as trustee.
10. Boa and are participants as in complaint 3-ER-861-863 & 3-ER-837 thur 4-ER-956, stated in the brief page 17 & 32, violated the stay by transferring title without a lift in the stay 4-ER-918, no motion to lift stay in the history according to 5-ER-1310-1338.
11. There was intent to defraud because BOA defrauded appellants' by holding onto payments that were received after the transfer

5-ER-1272-1273, raising appellants' payments during bankruptcy as stated in brief page 18. (5-ER-1304-1306 & 1298-1302).

12. Letter sent reflected that they will not Accept payments but they did after the date 5-ER-1278 according to their own documentation.
13. Boa agreed with the transfer because the court informed them for they previously owned the tile according to the proof of claim and waived its rights by not objecting to the transfer as stated in brief on page 29.
14. Wells arrears were paid as seen in 1-ER-45, 4-ER-999.
15. Wells arrears were \$14,469.88 1-ER-182. Proof of payment 5-ER-1387-1389.
16. Appellants declaration of postpetition payment 4-ER-1044-1046, they had to pay twice.
17. ***Wells admits that according*** there records they have evidence by *promissory note and the records reflect that the pre-petition arrears were reflected on 11/29/2016, 4-ER-1005 but the letter was dated for 7/25/2017, as shown with proof of payment by cashiers check reflects final payments made on 12/1/2016 for \$3,400, 12/21/2016 for \$10,500 & 12/31/2016 for \$3478 the debtor(s) had paid the total of \$17,378.00 way before wells declaration document was filed..*
18. As stated in the complaint Wells filed false information in official documents 3-ER-853 & 3-ER-876-885.
19. For the appellants to receive a fair trial a review is necessary because there is fraud on the court.

20. The appellees Wells Fargo, BOA and all co-conspirators are guilty of state and federal laws as stated in the complaint 4-ER-IV. STANDARDS OF REVIEW issues

Answer:

Redressability

1. As stated in the statement of the issues 7-ER-1953, unripe claims cannot later serve as a basis for res judicata [Rawe v. Liberty Mut. Fire Ins. Co., 462 F.3d 521, 529-30 (6th Cir. 2006) under Article III a person must suffer some actual [appellants suffer money lost ,or threatening injury and they have. Injury can be traced, then redress should be favorable.
2. According to the Fourteenth Amendment section 1983 can be used to redress violated rights 3-ER-847 ¶¶ 1 . According to United District Court with regards to the amount of controversy or in any other court of competent jurisdiction within five years after the date of the occurrence of violation 3-ER-848 ¶¶ 4.
 - a. appellants suffer money lost from Boa on page 29 in the brief goes into more details in the complaint dkt 127 & dkt 170.
 - b. appellants suffer money lost Wells because they were forced to pay the arrearage twice once through the plan 5-ER-1663, again post petition payment 4-ER-999 and 4-ER-1044 & because payments were improperly applied appellants had to pay every payment by cashiers check.
 - c. Appellants lost their right to a fair trial imposing unconstitutional violations.
 - d. In the appeals court of 2 district court of appeal
 - e. Appellant suffer injury 5-ER-1402-1405

f. Affected credit 5-ER-1432

g. On numerous accounts the appellants informed the court that they were being harrassed 7-ER-1957 & 7-ER-1893.

LEAVE TO AMEND

3. The appellants according to rule 15, should be allowed to amend complaint by a responsive pleading but was denied 7-ER-1955. Appellants filed their response on 10/13/20 Dkt 171 & responding to dkt 154 & 155 dated 10/9/20. 3-ER-826-831.

4. As stated in the leave to amend 3-ER-827. The appellants understand that F.R.C.P 15(a)(2) provides "that [t]he court should freely give leave [to amend a complaint]when justice so requires". In this case justice is required according to the claims in the complaint. The district court has the discretion to decide whether to grant appellants leave to amend. See Swanson v. U.S Forest Serv., 87 F .3d 339, 343 (9th Cir. 1982); Jordan v. County of Los Angeles, 669 F.2d 1311, 1324 (9th Cir. 1982).

5. The court must consider if the amendment was due to undue delay,which it was not, unduly prejudicing the defendants 3-ER-829, was not in bad faith or futile 3-ER-830. The first amendment to the complaint was due to error and mistake and was amended as a matter of course as a course dkt 18 filed 7/3/2020. The appellants clearly stated why the previous leave was necessary due to clerical errors and valid mistakes in the code of law.

6. The first amendment as a matter of course due to error or mistake and it was before any demurrer or response so no request to amend was not needed..

a. SEC. 3. Section 472 is added to the Code of Civil Procedure, to read:472. (a) Any pleading may be amended once by the party of course, and without

costs, at any time before the answer or demurrer is filed, or after demurrer and before the trial of the issue of law thereon, by filing the same as amended and serving a copy on the adverse party, and the time in which the adverse party must respond thereto shall be computed from the date of notice of the amendment.

7. **Second request for Amending as a Matter of Course.** A party may amend its pleading once as a matter of course within: 21 days of the response which the appellants did 3-ER-833.

A. **A Dismissal Under Rule 8(a) was not Reviewed For An Abuse Of Discretion**

Answer: not true was mentioned in brief on page 19, 35 & 3-ER-773.

B. **A Dismissal Under Rule 12(b)(6) is an error of law**

The appellants did state a claim so dismissal under 12(b)(6) would be inappropriate 3-ER-773 in the brief on page 11, 12 & 13.

V. SUMMARY OF ARGUMENT

answer:

The court should not affirm the judgement for five reasons.

1. Appellants did not forfeit any judgement.
2. The appellants did state a claim 12(b)
3. There is an exceptional circumstances exist
4. Error in decision for privity between parties
5. Error of judgment identity of claim
6. Error in denying leave to amend
7. Claims not barred by res judicata
8. There a reasonable question for review
9. Claim Preclusion does not affect claim because it is a continued wrong and was unripe.
10. Appellants did not object to the proof of claim.

VI. THE APPELLANTS DID NOT FORFEITED ANY ERROR BY FAILING TO DISCUSS THE DISTRICT COURT'S CORRECT HOLDING THAT THEIR COMPLAINTS VIOLATED RULE 8(A)

Under section i the brief (¶¶ i page 22) in the The Trial court Erred in his decision concerning Legal Standing for failure to state a claim

The court ordered the appellants to separate the defendants when alleging the issues. When the appellant alleged what the issues were the complaint was expanded because of repetitive complaints against the defendants but acquired the same issues for rule 8.

The complaint does not violate rule 8(a) as seen in 3 ER-837, 6-ER-1672 & 6-ER-1719 & 7-ER-1893. The appellants made it clear what the issues were when they filed their reconsideration in the district courts 7 ER-1890-1895 & statement of the issues 7-ER-1942-1961.

The expansion of the page was only due to the judges request to separate eight plus defendants to increase the pages. The appellants are pro-se litigants and similar to PRIMO C. NOVERO vs. DUKE ENERGY. URS ENERGY AND CONSTRUCTION INC., CDI CORPORATION case # 17-14963 stated: "Although Plaintiff's brief does not contain an argument section with citations to legal authority, he does specify the underlying facts upon which his arguments are based and includes cites to the record. Moreover, his "Summary of the Arguments" adequately identifies the legal theories upon which he seeks relief, at least in some instances. Accordingly, they exercise their discretion to consider his brief. The applicant has mentioned issues or referenced the issues purportedly incorporated by reference as seen in this brief [United States v. Moran, 778 F.3d 942, 985 (11th Cir. 2015)].

Appellees have repeatedly called the appellants inadequate in their responses according to their replies, it's just convenient to say that the appellants are poor candidates. The appellees and all of them, in their response filed documents at the same time making it difficult to respond.

Appellants filed for a stay in the case dkt 133 and denied dkt 163. The appellants filed for a continuous dkt 92 7-ER-2022 because all of the appellees scheduled hearings on the same day, consecutively making it almost impossible to respond and this happened numerous times. A complete case consolidation 2-ER-327-330 and the appellees objected dkt 87,91,93,94, denied dkt 126, no the appellees are not interested in legitimate leniency 6-ER-1660. The trial courts ignored dkt 119 7-ER-2025 for request for pretrial conference filed on 8/31/2020 which denied the applicants the rights to clearly understand the deficiencies, the request for ADR was filed on 9/5/2020 dkt 121 7-ER-2026, the joint report rule 26(f) discovery plan dkt 120 7-ER-2026 it was ignored by the appellees and amended dft 122 and the supplemental to joint report rule 26(f) with attached order ignored by the trial courts. Appellants scheduled a hearing on the wrong date 9/7/2020 dkt 88 and they filed a corrected notice on 9/8/2020 objected dkt 129,130 and the court failed to notify the appellants to make the corrections denied . The defendants objected to the stay order dkt 134,138. The appellants did not waive their right to have this case redressed, they appealed to the 2nd district court of appeal request for rehearing 7-ER-2048, petition for writ of certiorari 7-ER-2047 and went to the supreme Court 7-ER-2049. The appellants are candidates for leniency.

Therefore, the appellants have not waived their rights.

VII. RES JUDICATA DOES NOT BARS THIS SUIT

The similar second suit has sufficiently new facts and does not bar the second suit as seen in appellants brief page 24 and the district court was wrong.. Where a special remedial scheme exists expressly foreclosing successive litigation by nonlitigants, as for example in bankruptcy or probate, legal proceedings may terminate pre-existing rights if the scheme is

otherwise consistent with due process. See *NLRB v. Bildisco & Bildisco*, 465 U. S. 513, 529-530, n. 10 (1984). ("[P]roof of claim must be presented to the Bankruptcy Court . . . or be lost"); *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U. S. 478, (1988) (nonclaim statute terminating unsubmitted claims against the estate). These exceptions, however, do and may apply to this case.

Answer:

A. The California Judgment Is not Claim-Preclusive As To Wells Fargo
Wells was aware of the maximum loan charges according to 4-ER-988. But they continue to raise the mortgage every year. Appellants request for review for error of judgement and for conflicting federal laws and fraud on the court and for unripe issues as seen in brief page 27. Preclusion issues involve a mixture of federal and state law. 28 U.S.C section 1738 applies on its face only to prior state court judicial proceedings. Wells did claim preclusion but the judge did not rule in favor because they waived their rights by claiming preclusion at the appeal stage. The record on the appeal the appellants clerk notice was delayed 7-ER-2044, denied the right to judicial notice and denied the right to present any documents that were presented to trial court. The court did allow the defendants to JN their documents according to history documentation concerning JN in the court 7-ER-2043-2046. In the state court the appellants did request to amend if the court finds that it was needed.

- 1. Element One:** The California Suit Was not Resolved By A Final Judgment On The Merits and there were errors of law in their decision. The case was not fully litigated fairly and no trial.
- 2. Element Two:** The California Suit did not Involve The Same Parties as seen in 4-ER-1034-1042.
- 3. Element Three:** The California Suit did not Involve The Same Claims as seen in 2-ER-366,2-ER-448 & 4-ER-1034-1042.

There is fraud on the courts page 17-18 in the appellants brief.

- a. *The bankruptcy court ignored material facts* that the defendants did not have a binding deed of trust which was attached to their proof of claim as stated in brief page 28. (1) They gave false information on

official documents informing the court that the deed was binding and filed a declaration informing the court that the deed was binding 4-ER-1006 but that information was ignored 4-ER-981 .The appellants quested the validity of the loan 5-ER-1243. (2) The court ignored the default judgement filed in the case 5-ER-ER-1216 and declaration of debtor(s) 5-ER-1210(3) did not notice the appellants that they needed to schedule for hearing, ignored the declaration of postpetition pre confirmation for mortgage payment filed in the case 4-ER-1044 & 5-ER-1387 and if there were any deficiencies did not give notice of such if they existed FER-2-31.(4) Ignored material facts concerning the adversary, the defendants should have been considered served but they were not 4-ER-1034, 4-ER-ER-1037 & 4-ER-1040. The appellants have filed all documents needed to receive their bankruptcy relief FER-32-54, FER 177-179 & FER-173-175 and they await the filing of the discharge, three weeks has past since all documents were filed to receive relief FER-2-31 and just on 6/30/21 the trustee filed there chapter 13 standing final report and account dkt 269. All that is left is for the bankruptcy court to put in the discharge relief.

- b. The state court ignored that there was not a legal binding deed in the case. The defendants judicially notice 5-ER-1375 the document passed the deed as if it was officially assigned but it was not and it was ignored by the court and it was passed as if it was a legitimate recording of the deed. The court ignored the entry of default 4-ER-1189.The court ignored that the plaintiffs had paid several full payments 2-ER-393 and complete payments being applied 4-ER-1191-1192, reversed payments 2-ER-416 and 2-ER-412 shows full payment amount but identified them as if they were partial payments 4-ER-773. There is a conflict with federal laws as stated in page 11 in the brief. The record on the appeal the appellants clerk notice was delayed 7-ER-2044, denied the right to judicial notice and denied the right to present any documents that were presented to

trial court. The court was biased toward their decisions according to history documentation concerning JN in the court 7-ER-2043-2046.

i. There are missing documents not available to the appellants. Concerning the filing in the record FER-258. The Opening Brief is missing and therefore unavailable to the appellants. Forced amended Judicial notice is not available and the statement of the case that was filed is in addition to the mention is not available to the appellants. Comparing the docket summary history public profile 7-ER-2043-2047. According to the cover of the state court complaint 4-ER-1080 it was not on its face, the defendants never mention it in their responses in the superior court or the appeals court so the court ignored material facts concerning the case.

ii. The Supreme Court held that 28 U.S.C. § 1738 does not apply to unreviewed state administrative fact finding. In *University of Tennessee v. Elliott*, 478 U.S. 788, 796, 106 S.Ct. 3220, 92 L.Ed.2d 635 (1986).

iii. Res judicata effect does not apply where there are Legal and equitable claims--such as questions of title and affirmative defenses--are not conclusively established unless they were fully and fairly litigated in an hearing. (*Vella v. Hudgins* (1977) 20 Cal.3d. 251, 255-257 [142 Cal. Rptr. 414, 572 P.2d 28].)

iiii. Res Judicata does not apply on a prior judgement when there has been fraudulent conciliation involved.

iiiii. Under 25(1) Exceptions to the General Rule; Where there is a case secured by a judgment and later commence an action due to case unripe and facts are based on the same facts and charging federal law violation the federal court has jurisdiction. The appellees continued there wrong and all of them. *Johnston v. Ota* (1941), 43 Cal. App. 2d 94 [110 P.2d 507], [187 Cal. App. 2d 236] 1-ER-281.

Continued there wrong

- c. Appellee Wells Fargo is still continuing there wrong. The appellees have filed false information in an official document in the bankruptcy court form 4100R on 5/8/2021 a response Doc. FER-173-175. They passed official documents as though it was recorded but it was not. Wells did not show the correct amount of payments ahead as seen in postpetition payments paid according to proof of payments 2-ER-411. The appellants have paid 4 payments ahead.
- d. Appellee Wells Fargo & SLS Knowingly prepared writing with intent to present or use it or to allow it to be presented in support of any false or fraudulent claim.
- e. Specialized Loan servicing LLC, the third party servicer to Towd Point Mortgage Trust 2020-1 and US Bank as their Trustee all of them, refuses to send a mortgage monthly statement and on their form 4100R FER-177-179 gives false information on official court documents dated 6/3/2021. The appellants are at least one payment ahead 1-ER-43-70.
- f. The appellants just got a copy because they were not aware of the filing until now dated 10/15/2020 FER-259-261. SLS filed the Assignment of Deed of Trust. This document should have been filed no longer than 30 days from the bill of sale but it was not because the transfer took place on 10/18/2019 6-ER-1615 one was never filed and again on 5/13/2020 6-ER-1617 and the assignment was filed five months later.
- g. Unlike the case they reference Colebrook v. CitiBank, N.A page 12 in response brief, the appeals court did not rule Res Judicata in the case. all of the actions did not involve the same injury as do the appellants or the same parties.

B. The Allowance of BANA's Proof of Claim Is Claim-Preclusive

1. **Element One:** The Bankruptcy Proceeding does not Involve The Same Parties as seen in 4-ER-1042.
2. **Element Two:** The Bankruptcy Proceeding Was Resolved By A Final Judgement but due to fraud on the court the appellants request for review. Courts of appeal have jurisdiction from all final judgement 7-ER-1944 and reviews.

3. **Element Three:** The Bankruptcy Proceeding involved The Same Claim is not true 4-ER-1042. Court's has often repeated the general rule that "one is not bound by a judgment in personam in a litigation in which he is not as designated as a party or to which he has not been made a party by service of process." *Hansberry v. Lee*, 311 U.S. 32, 40, 61 S.Ct. 115, 85 L.Ed. 22. Pp. 2171-2172.

4. T

C. The DEvilles' Effort To Evade Res Judicata Are not Groundless

One such exception to the res judicata doctrine involves claims of so-called continuing wrongs. For example, if a party sues another for breach of a contract and receives a damage award by way of a final judgment will res judicata prevent a second action based on a new, independent contractual breach? The intuitive answer plainly is no. With the right new facts, res judicata does not bar that second suit. Res judicata may bar a second suit if the suit raises the same claims that were dismissed on the merits in a first suit and not appealed but the appellants appealed 7-ER-2045, certior review 7-ER-2047.

An exception to the exception may arise when the plaintiff in a second case is merely claiming additional damages as in this case. In such a case, the res judicata analysis discussed above likely will not apply. Rather, the second case will survive a res judicata analysis only where the facts support a finding that the defendant committed a new, independent contractual breach which they did. To explain this exception to the exception, the courts sometimes borrow from tort law which provides that a continuing wrong is established by a continuing tortious act rather than from continued harm stemming from a prior act.

The Current Complaint Raises New Facts That Do Not Arise Out of The Same "Transaction Or Occurrence." In *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955), the Supreme Court unanimously reversed the application of res judicata where the lower court applied the same reasoning as the district court applied here.

VIII. THE DEVILLES' OTHER MISCELLANEOUS ARGUMENTS ARE WITH MERIT

Answer:

That Motion did seek to alter a judgement as seen in dkt 60, 2-ER-315-326. He denied without prejudice to allow the plaintiffs to receive their relief from the assigned district judge 2-ER-331. The district court stated in his order all parties agreed but that was not so. The appellants gave consent to A magistrate judge 7/2/2020 dkt 22 a decision was never entered. The district court left out explanation to the appellees and all of them, defense for res judicata 3-ER-668, 3-ER-6752-ER-316. The appellants did file an affidavit in the case concerning the intentional infliction of dkt 19.

The appellees by their own consent violated the same federal laws for wells 5-ER-1229-1233, 5-ER-1434-1464 this order was issued during the take over of the appellants loan 5-ER-1434-1435 TIL violation 5-ER-1436 in 2004 and 2009, they agreed to properly handle all loans 5-ER-1438-1456 and for dft 172 Wells forgot to sign there proof of service but was ignored that material facts 6-ER-1660-1671.

BOA / Wells consent order 5-ER-1235-1241 where they both were parties of the judgement. This issues were judgment in at least 50 states and the appellants reside in one of them California. The violations included among other laws that were violated Unfair and deceptive acts and practices laws of the states mentioned on page 5-ER-1235, you can say that they are old partners of crime.

Boa and all appellees are well familiar with this type of behavior.

Their lesson has not been learned. The appellees has had their share of leniency but the appellants rights has been with holden.

IX: CONCLUSION

The appellants Pray for relief. There is a reasonable question for review. Pursuit to rule 28 U.S.C § 1291 . Hacienda Val-ley Mobile Estates v. City of Morgan Hill Rent Review Comm'n, 353 F.3d 651, 653 (9th Cir. 2003). There is indeed error of law in regards to all decisions made in the case.

Appellees had their leniency up until now and they refuse to correct the issues. The appellees and all of them had numerous times to make the wrong they have committed right but they have made a conscious decision not to. If the issues would have been corrected and the abuse halted

toward the appellants this court filings would have been non-existent out of fear we fought. The appellants were by force to fight for their rights even when they were ignorant of what their rights were so yes it is time to receive their due care. The decision will affect us individually and as a nation our whole society will be affected. We believe and wish there could be a remedy that can alleviate this type of behavior. Looking at all of the past suits, money damages by the appellees and all of them, is not the solution that is working. A new law should be considered that can remedy what causes the appellees to commit these out raggest acts. These acts do not make them bad but the acts are indeed darkened and a law that works for both sides is needed to remedy these conduct.

Appellants declare that all information in this reply brief is true and correct to the best of our ability. All documents are true and correct copy attached to the supplemental expert of records.

For the foregoing reason the court should dessent the judgement and reverse and remand all judgement in the case for both Appeals filed in the case and review the state and the bankruptcy adversary .

Date: July 1st, 2021

Signed By:

**/s/ Frank Deville
Frank Deville Pro Se Litigants**

**/s/ Dee Deville
Dee Deville Pro Se Litigants**

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 8. Certificate of Compliance for Briefs

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form08instructions.pdf>

9th Cir. Case Number(s)

I am the attorney or self-represented party.

This brief contains words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (*select only one*):

- complies with the word limit of Cir. R. 32-1.
- is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.
- is an **amicus** brief and complies with the word limit of Fed. R. App. P. 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).
- is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.
- complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):
 - it is a joint brief submitted by separately represented parties;
 - a party or parties are filing a single brief in response to multiple briefs; or
 - a party or parties are filing a single brief in response to a longer joint brief.
- complies with the length limit designated by court order dated
- is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 15. Certificate of Service for Electronic Filing

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form15instructions.pdf>

9th Cir. Case Number(s) 20-56328

I hereby certify that I electronically filed the foregoing/attached document(s) on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

Service on Case Participants Who Are Registered for Electronic Filing:

I certify that I served the foregoing/attached document(s) via email to all registered case participants on this date because it is a sealed filing or is submitted as an original petition or other original proceeding and therefore cannot be served via the Appellate Electronic Filing system.

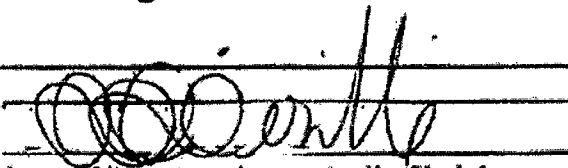
Service on Case Participants Who Are NOT Registered for Electronic Filing:

I certify that I served the foregoing/attached document(s) on this date by hand delivery, mail, third party commercial carrier for delivery within 3 calendar days, or, having obtained prior consent, by email to the following unregistered case participants (list each name and mailing/email address):

Description of Document(s) (required for all documents):

reply brief
Certificate of compliance to word length
Certificate of mailing

Signature



Date

7/3/2021

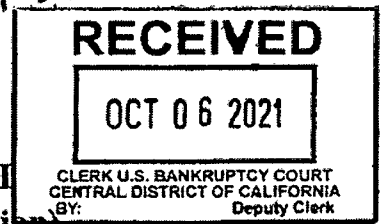
(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

EXHIBIT D

ORIGINAL

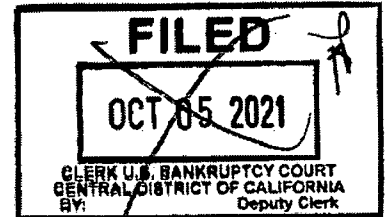
UNITED STATES BANKRUPTCY COURT
Central District of California (Riverside Division)



In re:
Frank Deville
Dee Anetionette Deville

Chapter 13 6:16-bk-20478-SY
Judge: Scott H. Yun

Debtor(s)



Declaration of Frank Deville and Dee Deville

We, Frank Deville and Dee Deville, declare:

- Debtor(s) Frank Deville and Dee Anetionette Deville are the debtor(s) in bankruptcy filing.
- Debtor(s) served proof of closing on 8/13/2021 the next day after the text order without image was filed in the case on 8/12/2021.
- Coincidentally, According to the docket history (**exhibit A**), the debtor(s) just noticed that several documents in the case are missing in the docket list in the bankruptcy court.
- The debtor(s) recently realized that docket # 272, 271, 206, 58, 94 and 129.
- The debtor(s) are requesting by letter for the clerk of the court to enter the missing documents docket # 272,271,206,58,94, and 129 into the docket history list because it is not necessary to make the dockets complete can cause a misunderstanding to the court as well as to the parties.
- The error can cause a misunderstanding .

We understand that a false statement or answer to any question in this declaration will subject me to penalties for perjury. We further understand that


perjury is punishable by a term of imprisonment of up to five (5) years and/or a fine of \$250,000(18 U.S.C. Section 1621,3571).

California

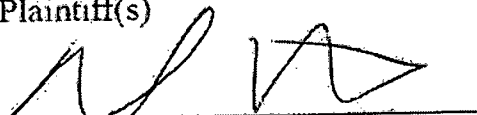
Rancho Cucamonga

We, Frank Deville and Dee Deville, declare under penalty of perjury that the foregoing is true and correct and that this declaration notarized attached was:

Executed on September 30, 2021.



Frank Deville
Plaintiff(s)



Dee Deville
Plaintiff(s)

EXHIBIT A

3787 University Avenue
 Riverside, CA 92501
 (951) 826-8000

U.S. Trustee
United States Trustee (RS)
 3801 University Avenue, Suite 720
 Riverside, CA 92501-3200
 (951) 276-6990

| Filing Date | # | Docket Text |
|-------------|---|---|
| 11/29/2016 | 1 | Chapter 13 Voluntary Petition Individual . Fee Amount \$310 Filed by Frank Deville , Dee Anetonette Marie Deville Summary of Assets and Liabilities (Form 106Sum or 206Sum) due 12/13/2016. Schedule A/B: Property (Form 106A/B or 206A/B) due 12/13/2016. Schedule C: The Property You Claim as Exempt (Form 106C) due 12/13/2016. Schedule D: Creditors Who Have Claims Secured by Property (Form 106D or 206D) due 12/13/2016. Schedule E/F: Creditors Who Have Unsecured Claims (Form 106E/F or 206E/F) due 12/13/2016. Schedule G: Executory Contracts and Unexpired Leases (Form 106G or 206G) due 12/13/2016. Schedule H: Your Codebtors (Form 106H or 206H) due 12/13/2016. Schedule I: Your Income (Form 106I) due 12/13/2016. Schedule J: Your Expenses (Form 106J) due 12/13/2016. Declaration About an Individual Debtors Schedules (Form 106Dec) due 12/13/2016. Statement of Financial Affairs (Form 107 or 207) due 12/13/2016. Chapter 13 Plan (LBR F3015-1) due by 12/13/2016. Cert. of Credit Counseling due by 12/13/2016. Declaration by Debtors as to Whether Income was Received from an Employer within 60-Days of the Petition Date (LBR Form F1002-1) due by 12/13/2016. Incomplete Filings due by 12/13/2016. (Cowan, Sarah) (Entered: 11/29/2016) |
| 11/29/2016 | 2 | Meeting of Creditors with 341(a) meeting to be held on 01/09/2017 at 09:00 AM at RM 101, 3801 University Ave., Riverside, CA 92501. Confirmation hearing to be held on 01/09/2017 at 01:30 PM at Crtrm 301, 3420 Twelfth St., Riverside, CA 92501. Proof of Claim due by 04/10/2017. (Cowan, Sarah) (Entered: 11/29/2016) |
| 11/29/2016 | 3 | Statement About Your Social Security Number (Official Form 121) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville . (Cowan, Sarah) (Entered: 11/29/2016) |
| 11/29/2016 | | Receipt of Chapter 13 Filing Fee - \$310.00 by 20. Receipt Number 20213770. (admin) (Entered: 11/30/2016) |
| 11/30/2016 | 4 | Declaration by Debtor as to Whether Debtor(s) Received Income From an Employer Within 60 Days of Petition (LBR Form F1002-1) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville (RE: related document(s)1 Voluntary Petition (Chapter 13)). (Green, Yolanda) (Entered: 12/01/2016) |
| 11/30/2016 | 5 | Schedule I Individual: Your Income (Official Form 106I) , Declaration About an Individual Debtor's Schedules (Official Form 106Dec) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville (RE: related document(s)1 Voluntary Petition (Chapter 13)). (Green, Yolanda) Additional attachment(s) added on 12/12/2016 (Green, Yolanda). (Entered: 12/01/2016) |
| 12/01/2016 | 6 | BNC Certificate of Notice (RE: related document(s)2 Meeting (AutoAssign Chapter 13)) No. of Notices: 11. Notice Date 12/01/2016. (Admin.) (Entered: 12/01/2016) |
| | 7 | |

**U.S. Bankruptcy Court
Central District of California (Riverside)
Bankruptcy Petition #: 6:16-bk-20478-SY**

Assigned to: Scott H. Yun
Chapter 13
Voluntary
Asset

Date filed: 11/29/2016
Date terminated: 08/12/2021
Debtor discharged: 07/09/2021
Joint debtor discharged: 07/09/2021
Plan confirmed: 01/30/2017
341 meeting: 01/23/2017

Debtor disposition: Standard Discharge
Joint debtor disposition: Standard Discharge

Debtor

Frank Deville
PO Box 535
Rancho Cucamonga, CA 91729
SAN BERNARDINO-CA
SSN / ITIN: xxx-xx-5738

represented by **Lisa F Collins-Williams**
Law office of Lisa F Collins-Williams
2601 W. Martin Luther King Jr
Suite B
Los Angeles, CA 90008
323-290-6650
Email: lisa_collinswilliams@yahoo.com

Joint Debtor

Dee Anetionette Marie Deville
PO Box 535
Rancho Cucamonga, CA 91729
SAN BERNARDINO-CA
SSN / ITIN: xxx-xx-2252
Tax ID / EIN: 27-5413735
aka Dee Anetionette Sutton Deville
aka Dee Anetionette Sutton
dba Best Deals Furniture

represented by **Lisa F Collins-Williams**
(See above for address)

Trustee

Rod (MJ) Danielson (TR)
3787 University Avenue
Riverside, CA 92501
(951) 826-8000
TERMINATED: 06/09/2017

Trustee

Rod (SY) Danielson (TR)
3787 University Avenue
Riverside, CA 92501
(951) 826-8000
TERMINATED: 12/13/2017

Trustee

Rod Danielson (TR)

| | | |
|------------|-----------|--|
| 12/01/2016 | <u>7</u> | BNC Certificate of Notice (RE: related document(s)) Voluntary Petition (Chapter 13) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) No. of Notices: 1. Notice Date 12/01/2016. (Admin.) (Entered: 12/01/2016) |
| 12/01/2016 | <u>8</u> | BNC Certificate of Notice (RE: related document(s)) Voluntary Petition (Chapter 13) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) No. of Notices: 1. Notice Date 12/01/2016. (Admin.) (Entered: 12/01/2016) |
| 12/07/2016 | <u>9</u> | Statement Filed by Trustee Rod (MJ) Danielson (TR). (Danielson (TR), Rod (MJ)) (Entered: 12/07/2016) |
| 12/08/2016 | <u>10</u> | Certificate of Credit Counseling Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)) Voluntary Petition (Chapter 13)). (Mohammad, Sandy) (Entered: 12/09/2016) |
| 12/09/2016 | <u>11</u> | Schedule D Individual: Creditors Who Have Claims Secured by Property (Official Form 106D or 206D) , Schedule E/F Individual: Creditors Who Have Unsecured Claims (Official Form 106F or 206F) , Schedule G Individual: Executory Contracts and Unexpired Leases (Official Form 106G or 206G) , Schedule H Individual: Your Codebtors (Official Form 106H or 206H) , Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)) Voluntary Petition (Chapter 13)). (Mohammad, Sandy) (Entered: 12/12/2016) |
| 12/13/2016 | <u>12</u> | Schedule A/B Individual: Property (Official Form 106A/B or 206A/B) , Schedule C: The Property You Claimed as Exempt (Official Form 106C) , Schedule J: Your Expenses (Official Form 106J) , Statement of Financial Affairs for Individual Filing for Bankruptcy (Official Form 107 or 207) (NOT SIGNED) , Summary of Assets and Liabilities for Individual (Official Form 106Sum or 206Sum) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)) Voluntary Petition (Chapter 13)). (Mohammad, Sandy) (Entered: 12/13/2016) |
| 12/13/2016 | <u>13</u> | Chapter 13 Plan (LBR F3015-1) (NOT SIGNED) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Mohammad, Sandy) (Entered: 12/13/2016) |
| 12/13/2016 | <u>14</u> | Debtor's notice of section 341(a) meeting and hearing on confirmation of chapter 13 plan with copy of chapter 13 plan Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Mohammad, Sandy) (Entered: 12/13/2016) |
| 12/13/2016 | <u>15</u> | Motion in re: Credit Counseling Course Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Mohammad, Sandy) (Entered: 12/13/2016) |
| 12/13/2016 | <u>16</u> | Motion to Extend Deadline to File Schedules or Provide Required Information, and/or Plan (Case Opening Documents) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Mohammad, Sandy) (Entered: 12/13/2016) |
| 12/13/2016 | <u>17</u> | Notice of Dismissal of Case If Required Documents Are Not Filed Within 72 Hours (BNC) . (Hawkinson, Susan) WARNING: Notice generated in incorrect case number. Should be docketed in case no 6:16-bk-20879 MJ. Modified on 12/14/2016 (Hawkinson, Susan). Additional attachment(s) added on 12/14/2016 (Hawkinson, Susan). (Entered: 12/13/2016) |
| 12/14/2016 | <u>18</u> | Request for special notice Filed by Creditor Bank of America, N.A.. (Delisser, Connie) (Entered: 12/14/2016) |
| 12/14/2016 | <u>19</u> | Order Granting Motion To Extend Deadline to File Schedules or Provide Required |

| | | |
|------------|-------------|--|
| | | Information, and/or Plan to and including December 22, 2016. (Case Opening Documents) (BNC-PDF) (Related Doc # <u>16</u>) Signed on 12/14/2016. (Lozano, Tanisha) (Entered: 12/14/2016) |
| 12/14/2016 | ● <u>20</u> | Chapter 13 Plan (LBR F3015-1) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>1</u> Chapter 13 Voluntary Petition Individual . Fee Amount \$310 Filed by Frank Deville , Dee Anetionette Marie Deville Summary of Assets and Liabilities (Form 106Sum or 206Sum) due 12/13/2016. Schedule A/B: Property (Form 106A/B or 206A/B) due 12/13/2016. Schedule C: The Property You Claim as Exempt (Form 106C) due 12/13/2016. Schedule D: Creditors Who Have Claims Secured by Property (Form 106D or 206D) due 12/13/2016. Schedule E/F: Creditors Who Have Unsecured Claims (Form 106E/F or 206E/F) due 12/13/2016. Schedule G: Executory Contracts and Unexpired Leases (Form 106G or 206G) due 12/13/2016. Schedule H: Your Codebtors (Form 106H or 206H) due 12/13/2016. Schedule I: Your Income (Form 106I) due 12/13/2016. Schedule J: Your Expenses (Form 106J) due 12/13/2016. Declaration About an Individual Debtors Schedules (Form 106Dec) due 12/13/2016. Statement of Financial Affairs (Form 107 or 207) due 12/13/2016. Chapter 13 Plan (LBR F3015-1) due by 12/13/2016. Cert. of Credit Counseling due by 12/13/2016. Declaration by Debtors as to Whether Income was Received from an Employer within 60-Days of the Petition Date (LBR Form F1002-1) due by 12/13/2016. Incomplete Filings due by 12/13/2016. (Ventura, Olivia) (Entered: 12/14/2016) |
| 12/14/2016 | ● <u>21</u> | Statement of Financial Affairs for Individual Filing for Bankruptcy (Official Form 107 or 207) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>1</u> Voluntary Petition (Chapter 13)). (Ventura, Olivia) (Entered: 12/14/2016) |
| 12/15/2016 | ● <u>22</u> | BNC Certificate of Notice (RE: related document(s) <u>17</u> Notice of Dismissal of Case If Required Documents Are Not Filed Within 72 Hours (VAN-197) (BNC)) No. of Notices: 1. Notice Date 12/15/2016. (Admin.) (Entered: 12/15/2016) |
| 12/16/2016 | ● <u>23</u> | Notice of Mortgage Payment Change (No Proof of Claim Filed) with Certificate of Service (Official Form 410S-1) Filed by Creditor Bank of America, N.A.. (Amador, Luisa) (Entered: 12/16/2016) |
| 12/16/2016 | ● <u>24</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>19</u> Order on Motion to Extend Deadline to File Schedules and/or Plan (Case Opening Documents - All Chapters) (BNC-PDF)) No. of Notices: 1. Notice Date 12/16/2016. (Admin.) (Entered: 12/16/2016) |
| 12/20/2016 | ● <u>25</u> | Amended Schedule A/B Individual: Property (Official Form 106A/B or 206A/B) , Amended Schedule C: The Property You Claimed as Exempt (Official Form 106C) , Amended Schedule I Individual: Your Income (Official Form 106I) , Amended Schedule J: Your Expenses (Official Form 106J) , List of Creditors (Master Mailing List of Creditors) , Amending Schedules (D) (E/F) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Evangelista, Maria) (Entered: 12/20/2016) |
| 12/20/2016 | ● <u>26</u> | Amended Chapter 13 Plan Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>20</u> Chapter 13 Plan (LBR F3015-1) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>1</u> Chapter 13 Voluntary Petition Individual . Fee Amount \$310 Filed by Frank Deville , Dee Anetionette Marie Deville Summary of Assets and Liabilities (Form 106Sum or 206Sum) due 12/13/2016. Schedule A/B: Property (Form 106A/B or 206A/B) due 12/13/2016. Schedule C: The Property You Claim as Exempt (Form 106C) due 12/13/2016. Schedule D: Creditors Who Have Claims Secured by Property (Form 106D or 206D) due 12/13/2016. Schedule E/F: Creditors |

| | | |
|------------|------|---|
| | | Who Have Unsecured Claims (Form 106E/F or 206E/F) due 12/13/2016. Schedule G: Executory Contracts and Unexpired Leases (Form 106G or 206G) due 12/13/2016. Schedule H: Your Codebtors (Form 106H or 206H) due 12/13/2016. Schedule I: Your Income (Form 106I) due 12/13/2016. Schedule J: Your Expenses (Form 106J) due 12/13/2016. Declaration About an Individual Debtors Schedules (Form 106Dec) due 12/13/2016. Statement of Financial Affairs (Form 107 or 207) due 12/13/2016. Chapter 13 Plan (LBR F3015-1) due by 12/13/2016. Cert. of Credit Counseling due by 12/13/2016. Declaration by Debtors as to Whether Income was Received from an Employer within 60-Days of the Petition Date (LBR Form F1002-1) due by 12/13/2016. Incomplete Filings due by 12/13/2016.). (Evangelista, Maria) (Entered: 12/20/2016) |
| 12/20/2016 | ● 27 | Debtor's notice of section 341(a) meeting and hearing on confirmation of chapter 13 plan with copy of chapter 13 plan Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Evangelista, Maria) (Entered: 12/20/2016) |
| 12/20/2016 | ● | Receipt of Amendment Filing Fee - \$31.00 by 71. Receipt Number 20214408. (admin) (Entered: 12/21/2016) |
| 12/21/2016 | ● | Receipt of Amendment Filing Fee - \$31.00 by 32. Receipt Number 60135375. (admin) (Entered: 12/22/2016) |
| 12/21/2016 | ● 28 | Amendment to List of Creditors. Fee Amount \$31 Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Hawkinson, Susan) (Entered: 12/22/2016) |
| 12/29/2016 | ● 31 | Objection to Confirmation of Plan <i>AND REQUEST FOR DISMISSAL, AND DECLARATION OF TYNEIA MERRITT</i> Filed by Creditor Bank of America, N.A. (RE: related document(s)26 Amended Chapter 13 Plan Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (RE: related document(s)20 Chapter 13 Plan (LBR F3015-1) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (RE: related document(s)1 Chapter 13 Voluntary Petition Individual. Fee Amount \$310 Filed by Frank Deville, Dee Anetionette Marie Deville Summary of Assets and Liabilities (Form 106Sum or 206Sum) due 12/13/2016. Schedule A/B: Property (Form 106A/B or 206A/B) due 12/13/2016. Schedule C: The Property You Claim as Exempt (Form 106C) due 12/13/2016. Schedule D: Creditors Who Have Claims Secured by Property (Form 106D or 206D) due 12/13/2016. Schedule E/F: Creditors Who Have Unsecured Claims (Form 106E/F or 206E/F) due 12/13/2016. Schedule G: Executory Contracts and Unexpired Leases (Form 106G or 206G) due 12/13/2016. Schedule H: Your Codebtors (Form 106H or 206H) due 12/13/2016. Schedule I: Your Income (Form 106I) due 12/13/2016. Schedule J: Your Expenses (Form 106J) due 12/13/2016. Declaration About an Individual Debtors Schedules (Form 106Dec) due 12/13/2016. Statement of Financial Affairs (Form 107 or 207) due 12/13/2016. Chapter 13 Plan (LBR F3015-1) due by 12/13/2016. Cert. of Credit Counseling due by 12/13/2016. Declaration by Debtors as to Whether Income was Received from an Employer within 60-Days of the Petition Date (LBR Form F1002-1) due by 12/13/2016. Incomplete Filings due by 12/13/2016.) (Merritt, Tyneia) WARNING: Item subsequently amended by docket entry 32. Modified on 1/3/2017 (Mohammad, Sandy). (Entered: 12/29/2016) |
| 01/03/2017 | ● 32 | Notice to Filer of Error and/or Deficient Document Incorrect hearing time was selected. THE FILER IS INSTRUCTED TO FILE AN AMENDED NOTICE OF MOTION/HEARING WITH CORRECT HEARING INFORMATION. Correct time for Confirmation Hearings for Judge Jury is 1:30 p.m. (RE: related document(s)31 Objection to Confirmation of the Plan filed by Creditor Bank of America, N.A.) (Mohammad, Sandy) (Entered: 01/03/2017) |

| | | |
|------------|-------------|---|
| 01/03/2017 | ● <u>33</u> | Declaration Setting Forth Postpetition, Preconfirmation Payments On: 1. Deeds of Trust (or Mortgages), 2. Leases of Personal Property; 3. Purchase Money Security Liens on Personal Property Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Hawkinson, Susan) (Entered: 01/04/2017) |
| 01/05/2017 | ● <u>34</u> | Notice of motion/application for <i>OBJECTION TO CHAPTER 13 PLAN AND REQUEST FOR DISMISSAL, AND DECLARATION OF TYNELA MERRITT</i> Filed by Creditor Bank of America, N.A.. (Merritt, Tyneia) (Entered: 01/05/2017) |
| 01/09/2017 | ● <u>35</u> | Amended Chapter 13 Plan Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>26</u> Amended Chapter 13 Plan Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>20</u> Chapter 13 Plan (LBR F3015-1) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>1</u> Chapter 13 Voluntary Petition Individual . Fee Amount \$310 Filed by Frank Deville , Dee Anetionette Marie Deville Summary of Assets and Liabilities (Form 106Sum or 206Sum) due 12/13/2016. Schedule A/B: Property (Form 106A/B or 206A/B) due 12/13/2016. Schedule C: The Property You Claim as Exempt (Form 106C) due 12/13/2016. Schedule D: Creditors Who Have Claims Secured by Property (Form 106D or 206D) due 12/13/2016. Schedule E/F: Creditors Who Have Unsecured Claims (Form 106E/F or 206E/F) due 12/13/2016. Schedule G: Executory Contracts and Unexpired Leases (Form 106G or 206G) due 12/13/2016. Schedule H: Your Codebtors (Form 106H or 206H) due 12/13/2016. Schedule I: Your Income (Form 106I) due 12/13/2016. Schedule J: Your Expenses (Form 106J) due 12/13/2016. Declaration About an Individual Debtors Schedules (Form 106Dec) due 12/13/2016. Statement of Financial Affairs (Form 107 or 207) due 12/13/2016. Chapter 13 Plan (LBR F3015-1) due by 12/13/2016. Cert. of Credit Counseling due by 12/13/2016. Declaration by Debtors as to Whether Income was Received from an Employer within 60-Days of the Petition Date (LBR Form F1002-1) due by 12/13/2016. Incomplete Filings due by 12/13/2016.)). (Lozano, Tanisha) (Entered: 01/09/2017) |
| 01/09/2017 | ● <u>36</u> | Declaration RE Filing of Tax Returns and Payment of Domestic Support Obligations (Preconfirmation) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Lozano, Tanisha) (Entered: 01/09/2017) |
| 01/09/2017 | ● <u>37</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>35</u> Amended Chapter 13 Plan). (Lozano, Tanisha) (Entered: 01/09/2017) |
| 01/09/2017 | ● <u>39</u> | Document Hearing re Confirmation of Chapter 13 Plan - Continued (RE: related document(s) <u>26</u> Amended Chapter 13 Plan filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) Confirmation hearing to be held on 1/23/2017 at 01:30 PM at Crtrm 301, 3420 Twelfth St., Riverside, CA 92501. The case judge is Meredith A. Jury (Green, Yolanda) (Entered: 01/10/2017) |
| 01/10/2017 | ● <u>38</u> | Continuance of Meeting of Creditors (Rule 2003(e)) Filed by Trustee Rod (MJ) Danielson (TR). 341(a) Meeting Continued to 1/23/2017 at 09:00 AM at RM 101, 3801 University Ave., Riverside, CA 92501. (Danielson (TR), Rod (MJ)) (Entered: 01/10/2017) |
| 01/18/2017 | ● <u>40</u> | Notice of Mortgage Payment Change (No Proof of Claim Filed) with Certificate of Service (Official Form 410S-1) Filed by Creditor Bank of America, N.A.. (Amador, Luisa) (Entered: 01/18/2017) |
| 01/19/2017 | ● <u>41</u> | Withdrawal re: <i>OF OBJECTION TO CHAPTER 13 PLAN AND REQUEST FOR DISMISSAL</i> Filed by Creditor Bank of America, N.A. (RE: related document(s) <u>31</u> Objection to Confirmation of the Plan). (Merritt, Tyneia) (Entered: 01/19/2017) |

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| 01/19/2017 | ● <u>42</u> | Amended Schedule I Individual: Your Income (Official Form 106I) , Amended Schedule C: The Property You Claimed as Exempt (Official Form 106C) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Lozano, Tanisha) (Entered: 01/20/2017) |
| 01/23/2017 | ● <u>43</u> | Debtor's Request to Activate Electronic Noticing (DeBN) Filed by Joint Debtor Dee Anetionette Marie Deville. (Denson, Latisha) (Entered: 01/23/2017) |
| 01/23/2017 | ● <u>44</u> | Document/Hearing Held - C/C Confirmed per trustee's recommendation. (RE: related document(s) <u>26</u> Amended Chapter 13 Plan filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) (Lozano, Tanisha) (Entered: 01/25/2017) |
| 01/30/2017 | ● <u>45</u> | Order Confirming Chapter 13 Plan (BNC-PDF) (Related Doc # <u>35</u>) Signed on 1/30/2017 (Hawkinson, Susan) (Entered: 01/30/2017) |
| 02/01/2017 | ● <u>46</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>45</u> Order Confirming Chapter 13 Plan (BNC-PDF)) No. of Notices: 1. Notice Date 02/01/2017. (Admin.) (Entered: 02/01/2017) |
| 02/09/2017 | ● <u>47</u> | Request for courtesy Notice of Electronic Filing (NEF) Filed by Delmotte, Joseph. (Delmotte, Joseph) (Entered: 02/09/2017) |
| 02/09/2017 | ● <u>48</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Mohammad, Sandy) (Entered: 02/10/2017) |
| 02/24/2017 | ● <u>49</u> | Amended Chapter 13 Plan Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>13</u> Chapter 13 Plan (LBR F3015-1) (NOT SIGNED) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville .) (Mohammad, Sandy). Related document(s) <u>20</u> Chapter 13 Plan (LBR F3015-1) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville. CORRECTED to relate document to docket entry 20 in place of docket entry 13. Modified on 4/19/2017 (Eudy, Debra). (Entered: 02/24/2017) |
| 02/27/2017 | ● <u>50</u> | Notice of Requirement to Complete Course in Financial Management (Auto VAN-105) (BNC). (AutoDocket, User) (Entered: 02/27/2017) |
| 03/02/2017 | ● <u>51</u> | BNC Certificate of Notice (RE: related document(s) <u>50</u> Notice of Requirement to Complete Course in Financial Management (Auto VAN-105) (BNC)) No. of Notices: 1. Notice Date 03/02/2017. (Admin.) (Entered: 03/02/2017) |
| 03/20/2017 | ● <u>52</u> | Document - proof of mortgage payment Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Mohammad, Sandy) (Entered: 03/21/2017) |
| 03/24/2017 | ● <u>53</u> | Certification About a Financial Management Course for Debtor 1 (Official Form 423) Filed by Debtor Frank Deville . (Mohammad, Sandy) (Entered: 03/24/2017) |
| 03/24/2017 | ● <u>54</u> | Certification About a Financial Management Course for Debtor 2 (Joint Debtor) (Official Form 423) Filed by Joint Debtor Dee Anetionette Marie Deville . (Mohammad, Sandy) (Entered: 03/24/2017) |
| 03/24/2017 | ● <u>55</u> | Proof of service re: Financial Management Course Certificate Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Mohammad, Sandy) (Entered: 03/27/2017) |
| 04/19/2017 | ● <u>56</u> | Document/Proof of Mortgage Payment with Proof of Service Filed by Joint Debtor |

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| | | Dee Anetionette Marie Deville , Debtor Frank Deville (Attachments: # <u>1</u> Proof of Service) (Mohammad, Sandy) (Entered: 04/20/2017) |
| 04/25/2017 | ● <u>59</u> | Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Lozano, Tanisha) (Entered: 04/26/2017) |
| 04/25/2017 | ● <u>60</u> | Notice of Opportunity To Request a Hearing On Motion (LBR 9013-1(o)) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>59</u> Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). (Lozano, Tanisha) (Entered: 04/26/2017) |
| 04/26/2017 | ● <u>57</u> | Notice of intent to pay claims . (Danielson (TR), Rod (MJ)) (Entered: 04/26/2017) |
| 04/26/2017 | ● <u>61</u> | Order Denying Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF) (RE: Related Doc # <u>59</u>) Signed on 4/26/2017. (Lozano, Tanisha) (Entered: 04/27/2017) |
| 04/27/2017 | ● <u>62</u> | Amended Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Lozano, Tanisha) (Entered: 04/28/2017) |
| 04/29/2017 | ● <u>63</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>61</u> Order on Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF)) No. of Notices: 1. Notice Date 04/29/2017. (Admin.) (Entered: 04/29/2017) |
| 05/11/2017 | ● <u>64</u> | Notice of additional claims. (Danielson (TR), Rod (MJ)) (Entered: 05/11/2017) |
| 05/12/2017 | ● <u>65</u> | Objection to Claim #4 by Claimant Wells Fargo Bank in the amount of \$ 14,489.88 Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Vandenstein, Nancy) (Entered: 05/12/2017) |
| 05/12/2017 | ● <u>68</u> | Motion RE: Objection to Claim Number 4 by Claimant Wells Fargo Bank. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Hawkinson, Susan) (Entered: 05/17/2017) |
| 05/15/2017 | ● <u>66</u> | Amended Schedule J: Your Expenses (Official Form 106J), Amended Request for loan modification assistance with attached proof of service. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Lozano, Tanisha) (Entered: 05/16/2017) |
| 05/15/2017 | ● <u>67</u> | Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Lozano, Tanisha) (Entered: 05/16/2017) |
| 05/24/2017 | ● <u>69</u> | Trustee's Comments on or Objection to <i>MOTION TO MODIFY/SUSPEND PLAN PAYMENTS</i> Filed by Trustee Rod (MJ) Danielson (TR) (RE: related document(s) <u>67</u> Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville). (Danielson (TR), Rod (MJ)) (Entered: 05/24/2017) |
| 05/24/2017 | ● <u>70</u> | Motion (to change of venue/intra-district transfer) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville with certificate of service (Moser (Jewell), Renee (Cynthia)) (Entered: 05/25/2017) |

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| 05/24/2017 | 71 | Notice of motion/application Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville with certificate of service (RE: related document(s)70 Motion (to change of venue/intra-district transfer) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville with certificate of service (Moser (Jewell), Renee (Cynthia))). (Moser (Jewell), Renee (Cynthia)) (Entered: 05/25/2017) |
| 05/24/2017 | 72 | Notice of Opportunity To Request a Hearing On Motion (LBR 9013-1(o)) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville with proof of service of document (RE: related document(s)70 Motion (to change of venue/intra-district transfer) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville with certificate of service (Moser (Jewell), Renee (Cynthia))). (Moser (Jewell), Renee (Cynthia)) (Entered: 05/25/2017) |
| 05/26/2017 | 73 | Amended Order disallowing claim - denied without prejudice (BNC-PDF) Signed on 5/26/2017 (RE: related document(s)68 Motion RE: Objection to Claim filed by Debtor Frank Deville, Joint Debtor Dee Anetonette Marie Deville). (Moser (Jewell), Renee (Cynthia)) (Entered: 05/26/2017) |
| 05/28/2017 | 74 | BNC Certificate of Notice - PDF Document. (RE: related document(s)73 Amended Order (BNC-PDF)) No. of Notices: 1. Notice Date 05/28/2017. (Admin.) (Entered: 05/28/2017) |
| 05/30/2017 | 75 | Trustee's Comments on or Objection to <i>MOTION TO CHANGE VENUE/ INTRA-DISTRICT TRANSFER</i> Filed by Trustee Rod (MJ) Danielson (TR) (RE: related document(s)70 Motion (to change of venue/intra-district transfer) Filed by Joint Debtor Dee Anetonette Marie Deville, Debtor Frank Deville with certificate of service (Moser (Jewell), Renee (Cynthia)) filed by Debtor Frank Deville, Joint Debtor Dee Anetonette Marie Deville). (Danielson (TR), Rod (MJ)) (Entered: 05/30/2017) |
| 05/31/2017 | 76 | Ex parte application/motion for shortening time (RE: related document(s) 68 Motion RE: Objection to Claim #4 by Claimant Wells Fargo Bank) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville (Hawkinson, Susan) (Entered: 05/31/2017) |
| 05/31/2017 | 77 | Application for Order shortening time (RE: related document(s)68 Motion RE: Objection to Claim #4 by Claimant Wells Fargo Bank) Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville (Hawkinson, Susan) (Entered: 05/31/2017) |
| 05/31/2017 | 78 | ORDER DENYING Application for Order setting hearing on shortening time. See order for details. (BNC-PDF) Signed on 5/31/2017 (RE: related document(s)77 Application shortening time filed by Debtor Frank Deville, Joint Debtor Dee Anetonette Marie Deville). (Hawkinson, Susan) (Entered: 05/31/2017) |
| 06/02/2017 | 79 | Motion RE: Objection to Claim Number 4 by Claimant Wells Fargo Bank, NA with certificate of service Filed by Joint Debtor Dee Anetonette Marie Deville , Debtor Frank Deville (Hawkinson, Susan) (Entered: 06/02/2017) |
| 06/02/2017 | 80 | Hearing Set (RE: related document(s)79 Motion RE: Objection to Claim filed by Debtor Frank Deville, Joint Debtor Dee Anetonette Marie Deville) The Hearing date is set for 7/10/2017 at 01:30 PM at Crtrm 301, 3420 Twelfth St., Riverside, CA 92501. The case judge is Meredith A. Jury (Hawkinson, Susan) (Entered: 06/02/2017) |
| 06/02/2017 | 81 | BNC Certificate of Notice - PDF Document. (RE: related document(s)78 ORDER |

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| | | shortening time (BNC-PDF)) No. of Notices: 1. Notice Date 06/02/2017. (Admin.) (Entered: 06/02/2017) |
| 06/05/2017 | ● <u>82</u> | Order Denying Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments (BNC-PDF) - for reasons stated in Trustee's Comment filed on May 24, 2017 (Related Doc # <u>67</u>) Signed on 6/5/2017. (Hawkinson, Susan) (Entered: 06/06/2017) |
| 06/07/2017 | ● <u>84</u> | Order to Allow Motion to Transfer Case - This case is ordered transferred to Judge Scott Yun (BNC-PDF) Signed on 6/7/2017 (RE: related document(s) <u>70</u> Generic Motion filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville). (Hawkinson, Susan) (Entered: 06/09/2017) |
| 06/08/2017 | ● <u>83</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>82</u> Order on Motion to Modify Plan or Suspend Plan Payments (Ch 13) (BNC-PDF)) No. of Notices: 1. Notice Date 06/08/2017. (Admin.) (Entered: 06/08/2017) |
| 06/09/2017 | ● | Judge Scott H. Yun added to case per order entered on 6/9/17 # <u>84</u> . Involvement of Judge Meredith A. Jury Terminated (Hawkinson, Susan) (Entered: 06/09/2017) |
| 06/09/2017 | ● <u>85</u> | Notice of reassignment of case (BNC) (Hawkinson, Susan) (Entered: 06/09/2017) |
| 06/11/2017 | ● <u>86</u> | BNC Certificate of Notice (RE: related document(s) <u>85</u> Notice of reassignment of case (BNC)) No. of Notices: 34. Notice Date 06/11/2017. (Admin.) (Entered: 06/11/2017) |
| 06/11/2017 | ● <u>87</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>84</u> Order (Generic) (BNC-PDF)) No. of Notices: 1. Notice Date 06/11/2017. (Admin.) (Entered: 06/11/2017) |
| 06/14/2017 | ● <u>88</u> | Amended Schedule C: The Property You Claimed as Exempt (Official Form 106C) , Amended Schedule J: Your Expenses (Official Form 106J) , Amended Schedule I Individual: Your Income (Official Form 106I) , Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Mason, Shari) (Entered: 06/15/2017) |
| 06/14/2017 | ● <u>89</u> | Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Mason, Shari) (Entered: 06/15/2017) |
| 06/15/2017 | ● <u>90</u> | Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Mason, Shari) (Entered: 06/15/2017) |
| 06/15/2017 | ● <u>91</u> | Notice of Opportunity To Request a Hearing On Motion (LBR 9013-1(o)) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>89</u> Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville, <u>90</u> Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). (Mason, Shari) (Entered: 06/15/2017) |
| 06/16/2017 | ● <u>92</u> | Trustee's Motion to Dismiss Case . (Danielson (TR), Rod (MJ)) (Entered: 06/16/2017) |
| 06/20/2017 | ● <u>93</u> | Proof of service of Proof of Qualifying for the Extension: Application for Automatic |

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| | | Extension of Time to file U.S. Individual Income Tax Return for year 2016. (Denson, Latisha) (Entered: 06/20/2017) |
| 06/21/2017 | ● <u>95</u> | Trustee's Motion to Dismiss Case . (Danielson (TR), Rod (SY)) (Entered: 06/21/2017) |
| 06/21/2017 | ● <u>96</u> | Hearing Set (RE: related document(s) <u>95</u> Trustee's Motion to Dismiss Case (batch)) The Hearing date is set for 7/25/2017 at 10:00 AM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun (Denson, Latisha) (Entered: 06/21/2017) |
| 06/26/2017 | ● <u>97</u> | Opposition to (related document(s): <u>79</u> Motion RE: Objection to Claim Number 4 by Claimant Wells Fargo Bank, N.A. filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) with Proof of Claim Filed by Creditor Wells Fargo Bank, N.A. (Delmotte, Joseph) (Entered: 06/26/2017) |
| 06/26/2017 | ● <u>98</u> | Motion to Commence Loan Modification Management Program (LMM) (Bank of America) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (Denson, Latisha) (Entered: 06/27/2017) |
| 06/26/2017 | ● <u>99</u> | Motion to Commence Loan Modification Management Program (LMM) (Wells Fargo/America's Servicing Company) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (Denson, Latisha) (Entered: 06/27/2017) |
| 06/26/2017 | ● <u>100</u> | Objection to Dismissal of Chapter 13 Case Asserted by Debtor(s) Proof of Claim No. 95 (related document(s): <u>95</u> Trustee's Motion to Dismiss Case) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Denson, Latisha) (Entered: 06/27/2017) |
| 06/26/2017 | ● <u>101</u> | Notice of Motion For Order Without a Hearing (LBR 9013-1(p) or (q)) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>98</u> Motion to Commence Loan Modification Management Program (LMM) (Bank of America) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville). (Denson, Latisha) (Entered: 06/27/2017) |
| 06/30/2017 | ● <u>102</u> | Amended Motion to Commence Loan Modification Management Program (LMM) (Bank of America) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Denson, Latisha) (Entered: 06/30/2017) |
| 06/30/2017 | ● <u>103</u> | Amended Motion to Commence Loan Modification Management Program (LMM) (Wells Fargo) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Denson, Latisha) (Entered: 06/30/2017) |
| 06/30/2017 | ● <u>104</u> | Amended Notice of motion/application Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>103</u> Amended Motion to Commence Loan Modification Management Program (LMM) (Wells Fargo) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). (Denson, Latisha) (Entered: 06/30/2017) |
| 06/30/2017 | ● <u>105</u> | 2 Amended Notice of motion/application Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>103</u> Amended Motion to Commence Loan Modification Management Program (LMM) (Wells Fargo) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). (Denson, Latisha) (Entered: 06/30/2017) |
| 06/30/2017 | ● <u>106</u> | Amended Notice of Opportunity To Request a Hearing On Motion (LBR 9013-1(o)) |

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| | | Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>103</u> Amended Motion to Commence Loan Modification Management Program (LMM) (Wells Fargo) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). (Denson, Latisha) (Entered: 06/30/2017) |
| 06/30/2017 | ● <u>107</u> | Amended Objection to Dismissal of Chapter 13 Case Asserted by Debtor's Proof of Claim no. 95 (related document(s): <u>95</u> Trustee's Motion to Dismiss Case) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Denson, Latisha) (Entered: 06/30/2017) |
| 07/06/2017 | ● <u>108</u> | Trustee's Motion to Dismiss Case . (Danielson (TR), Rod (SY)) (Entered: 07/06/2017) |
| 07/07/2017 | ● <u>109</u> | Notice of Hearing Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>79</u> Motion RE: Objection to Claim Number 4 by Claimant Wells Fargo Bank, NA with certificate of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). The Hearing date is set for 7/25/2017 at 01:30 PM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun (Jeanmarie, Cynthia) (Entered: 07/10/2017) |
| 07/07/2017 | ● <u>111</u> | Objection to Dismissal of Claim Asserted by Debtor(s) Proof of Claim #108 (related document(s): <u>108</u> Trustee's Motion to Dismiss Case) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Jeanmarie, Cynthia) (Entered: 07/10/2017) |
| 07/07/2017 | ● <u>113</u> | Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Jeanmarie, Cynthia) (Entered: 07/10/2017) |
| 07/07/2017 | ● <u>114</u> | Notice of motion/application Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>113</u> Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). (Jeanmarie, Cynthia) (Entered: 07/10/2017) |
| 07/10/2017 | ● <u>110</u> | Hearing Set (RE: related document(s) <u>79</u> Motion RE: Objection to Claim filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) The Hearing date is set for 7/25/2017 at 01:30 PM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun (Jeanmarie, Cynthia) (Entered: 07/10/2017) |
| 07/10/2017 | ● <u>112</u> | Hearing Set (RE: related document(s) <u>108</u> Trustee's Motion to Dismiss Case (batch)) The Hearing date is set for 7/25/2017 at 01:30 PM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun (Jeanmarie, Cynthia) (Entered: 07/10/2017) |
| 07/10/2017 | ● <u>115</u> | Document / Hearing Held - vacated case reassigned to Judge Scott Yun on 6/9/17 (RE: related document(s) <u>79</u> Motion RE: Objection to Claim filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) (Mohammad, Sandy) (Entered: 07/11/2017) |
| 07/17/2017 | ● <u>116</u> | Trustee's Comments on or Objection to <i>MOTION TO MODIFY/SUSPEND PLAN PAYMENTS</i> Filed by Trustee Rod (SY) Danielson (TR) (RE: related document(s) <u>113</u> Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville). (Danielson (TR), Rod (SY)) (Entered: 07/17/2017) |

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| 07/21/2017 | ● <u>118</u> | (AMENDED) Objection to Claim No. 108 (related document(s): <u>108</u> Trustee's Motion to Dismiss Case , <u>111</u> Objection filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Jeanmarie, Cynthia) (Entered: 07/24/2017) |
| 07/21/2017 | ● <u>119</u> | Notice of Objection to Claim Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>118</u> (AMENDED) Objection to Claim No. 108 (related document(s): <u>108</u> Trustee's Motion to Dismiss Case , <u>111</u> Objection filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville). (Jeanmarie, Cynthia) (Entered: 07/24/2017) |
| 07/24/2017 | ● <u>117</u> | Statement Filed by Trustee Rod (MJ) Danielson (TR). (Danielson (TR), Rod (SY)) (Entered: 07/24/2017) |
| 07/25/2017 | ● <u>120</u> | Adversary case 6:17-ap-01152. Complaint by Frank Deville , Dee Anetionette Deville against Wells Fargo America Servicing Company . (Fee Not Required). Nature of Suit: (14 (Recovery of money/property - other)) ,(21 (Validity, priority or extent of lien or other interest in property)) (Lozano, Tanisha) (Entered: 07/25/2017) |
| 07/25/2017 | ● <u>121</u> | Declaration re: <i>of Monica Danielle Cameron in Support of Opposition to the Amended Objection to Claim Asserted by Debtors to Proof of Claim No. 4</i> Filed by Creditor Wells Fargo Bank, N.A. (RE: related document(s) <u>97</u> Opposition). (Attachments: # <u>1</u> Proof of Service) (Delmotte, Joseph) (Entered: 07/25/2017) |
| 07/25/2017 | ● <u>123</u> | Hearing Held - DENIED (RE: related document(s) <u>79</u> Motion RE: Objection to Claim #4 filed by Wells Fargo Bank filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) (Denson, Latisha) (Entered: 07/26/2017) |
| 07/25/2017 | ● <u>124</u> | Hearing Continued (RE: related document(s) <u>108</u> Trustee's Motion to Dismiss Case (batch)) The Hearing date is set for 8/22/2017 at 01:30 PM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun (Denson, Latisha) (Entered: 07/26/2017) |
| 07/25/2017 | ● <u>125</u> | Hearing Continued (RE: related document(s) <u>95</u> Trustee's Motion to Dismiss Case (batch)) The Hearing date is set for 11/14/2017 at 01:30 PM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun (Denson, Latisha) (Entered: 07/27/2017) |
| 07/25/2017 | ● <u>126</u> | Order Denying Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF) (RE: Related Doc # <u>98</u>) Signed on 7/25/2017. (Jeanmarie, Cynthia) (Entered: 07/27/2017) |
| 07/25/2017 | ● <u>127</u> | Order Denying Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF) (RE: Related Doc # <u>99</u>) Signed on 7/25/2017. (Jeanmarie, Cynthia) (Entered: 07/27/2017) |
| 07/25/2017 | ● <u>128</u> | Order Denying Motion under Local Bankruptcy Rule 3015-1 (a) and (w) to modify plan or suspend plan payments (BNC-PDF) (Related Doc # <u>113</u>) Signed on 7/25/2017. (Jeanmarie, Cynthia) (Entered: 07/27/2017) |
| 07/26/2017 | ● | Hearing (Bk Motion) Continued (RE: related document(s) <u>108</u> TRUSTEE'S MOTION TO DISMISS CASE (BATCH)) Hearing to be held on 08/22/2017 at 01:30 PM 3420 Twelfth Street Courtroom 302 Riverside, CA 92501 for <u>108</u> , (Jeanmarie, Cynthia) (Entered: 07/26/2017) |

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| 07/26/2017 | ● <u>122</u> | Voluntary Dismissal of Motion to Dismiss Filed by Trustee Rod (SY) Danielson (TR) (RE: related document(s) <u>108</u> Trustee's Motion to Dismiss Case). (Danielson (TR), Rod (SY)) (Entered: 07/26/2017) |
| 07/26/2017 | ● | Hearing (Bk Motion) Continued (RE: related document(s) <u>95</u> TRUSTEE'S MOTION TO DISMISS CASE (BATCH)) Hearing to be held on 11/14/2017 at 01:30 PM 3420 Twelfth Street Courtroom 302 Riverside, CA 92501 for <u>95</u> , (Jeanmarie, Cynthia) (Entered: 07/26/2017) |
| 07/28/2017 | ● <u>130</u> | Notice of lodgment of Order in Bankruptcy Case Re: Order Overruling the Amended Objection to Claim Asserted by Debtors to Proof of Claim No. 4 Filed by Creditor Wells Fargo Bank, N.A. (RE: related document(s) <u>79</u> Motion RE: Objection to Claim Number 4 by Claimant Wells Fargo Bank, NA with certificate of service Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville). (Delmotte, Joseph) (Entered: 07/28/2017) |
| 07/29/2017 | ● <u>131</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>126</u> Order on Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF)) No. of Notices: 1. Notice Date 07/29/2017. (Admin.) (Entered: 07/29/2017) |
| 07/29/2017 | ● <u>132</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>127</u> Order on Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF)) No. of Notices: 1. Notice Date 07/29/2017. (Admin.) (Entered: 07/29/2017) |
| 07/29/2017 | ● <u>133</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>128</u> Order on Motion to Modify Plan or Suspend Plan Payments (Ch 13) (BNC-PDF)) No. of Notices: 1. Notice Date 07/29/2017. (Admin.) (Entered: 07/29/2017) |
| 07/31/2017 | ● <u>134</u> | Notice of lodgment of Order in Bankruptcy Case Re: Order on Objections to Claims Filed by Creditor Wells Fargo Bank, N.A.. (Delmotte, Joseph) (Entered: 07/31/2017) |
| 07/31/2017 | ● <u>136</u> | Declaration re: Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>79</u> Motion RE: Objection to Claim Number 4 by Claimant Wells Fargo Bank, NA.). (Jeanmarie, Cynthia) (Entered: 08/01/2017) |
| 07/31/2017 | ● <u>137</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>136</u> Declaration). (Jeanmarie, Cynthia) (Entered: 08/01/2017) |
| 08/01/2017 | ● <u>135</u> | Order Denying Objection to Claim Allowing Claim number 4 of Wells Fargo Bank NA (BNC-PDF) (Related Doc # <u>79</u>) Signed on 8/1/2017 (Denson, Latisha) (Entered: 08/01/2017) |
| 08/03/2017 | ● <u>138</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>135</u> Order on Motion RE: Objection to Claim (BNC-PDF)) No. of Notices: 1. Notice Date 08/03/2017. (Admin.) (Entered: 08/03/2017) |
| 08/14/2017 | ● <u>139</u> | Notice of additional claims. (Danielson (TR), Rod (SY)) (Entered: 08/14/2017) |
| 08/14/2017 | ● <u>140</u> | Proof of service of proof of insurance for automobiles for debtors. (Denson, Latisha) (Entered: 08/15/2017) |
| 08/17/2017 | ● <u>141</u> | Rights and responsibilities agreement between chapter 13 debtors and their attorneys Filed by Debtor Frank Deville. (Collins-Williams, Lisa) (Entered: 08/17/2017) |
| 08/17/2017 | ● <u>142</u> | Substitution of attorney Filed by Debtor Frank Deville. (Collins-Williams, Lisa) |

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| | | (Entered: 08/17/2017) |
| 10/02/2017 | ● <u>143</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) (Entered: 10/02/2017) |
| 10/10/2017 | ● <u>144</u> | Voluntary Dismissal of Motion (<i>Taxes</i>) Filed by Trustee Rod (SY) Danielson (TR) (RE: related document(s) <u>95</u> Trustee's Motion to Dismiss Case). (Danielson (TR), Rod (SY)) (Entered: 10/10/2017) |
| 10/10/2017 | ● <u>145</u> | Proof of service of 2016 tax return. (Denson, Latisha) (Entered: 10/11/2017) |
| 11/27/2017 | ● <u>147</u> | Notice of motion/application Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (RE: related document(s) <u>146</u> Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (Denson, Latisha) Additional attachment(s) added on 11/29/2017 .). (Denson, Latisha) (Entered: 11/29/2017) |
| 11/27/2017 | ● <u>148</u> | Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (Wells Fargo/America's Servicing Co) (Denson, Latisha) (Entered: 11/29/2017) |
| 11/27/2017 | ● <u>149</u> | Notice of motion/application (Wells Fargo) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (RE: related document(s) <u>148</u> Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville, Debtor Frank Deville (Wells Fargo/America's Servicing Co)). (Denson, Latisha) (Entered: 11/29/2017) |
| 11/29/2017 | ● <u>146</u> | Motion to Commence Loan Modification Management Program (LMM) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Denson, Latisha) Additional attachment(s) added on 11/29/2017 (Denson, Latisha). COMMENTS: The correct filed date is 11/27/2017. Modified on 11/29/2017 (Jeanmarie, Cynthia). (Entered: 11/29/2017) |
| 12/01/2017 | ● <u>150</u> | Declaration of Frank Deville and Dee Anetionette Deville Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>148</u> Motion to Commence Loan Modification Management Program (LMM)). (Tapia, Eileen) (Entered: 12/01/2017) |
| 12/01/2017 | ● <u>151</u> | Declaration of Frank Deville & Dee Anetionette Deville Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>146</u> Motion to Commence Loan Modification Management Program (LMM)). (Tapia, Eileen) (Entered: 12/01/2017) |
| 12/20/2017 | ● <u>152</u> | Declaration That No Party Requested a Hearing on Motion (LBR 9013-1(o)(3)) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>146</u> Motion to Commence Loan Modification Management Program (LMM)). (Jeanmarie, Cynthia) (Entered: 12/21/2017) |
| 12/21/2017 | ● <u>153</u> | Declaration That No Party Requested a Hearing on Motion (LBR 9013-1(o)(3)) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>148</u> Motion to Commence Loan Modification Management Program (LMM)). (Jeanmarie, Cynthia) (Entered: 12/21/2017) |
| 12/21/2017 | ● <u>154</u> | Order Denying Motion to Commence Loan Modification Management Prg (LMM) (Wells Fargo N.A.) (BNC-PDF) (RE: Related Doc # <u>148</u>) Signed on 12/21/2017. (Jeanmarie, Cynthia) (Entered: 12/21/2017) |

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| 12/21/2017 | ● <u>155</u> | Order Denying Motion to Commence Loan Modification Management Prg (LMM) (Bank of America N.A.) (BNC-PDF) (RE: Related Doc # <u>146</u>) Signed on 12/21/2017. (Jeanmarie, Cynthia) (Entered: 12/21/2017) |
| 12/23/2017 | ● <u>156</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>154</u> Order on Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF)) No. of Notices: 1. Notice Date 12/23/2017. (Admin.) (Entered: 12/23/2017) |
| 12/23/2017 | ● <u>157</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>155</u> Order on Motion to Commence Loan Modification Management Prg (LMM) (BNC-PDF)) No. of Notices: 1. Notice Date 12/23/2017. (Admin.) (Entered: 12/23/2017) |
| 02/01/2018 | ● <u>158</u> | Transfer of Claim Transfer Agreement 3001 (e) 2 Transferor: Citibank, N.A. (Claim No. 9) To LVNV Funding LLC Fee Amount \$25 To LVNV Funding LLC/o Resurgent Capital Services PO Box 10587 Greenville, SC 29603-0587 Filed by Creditor LVNV Funding LLC. (Lamb, David) (Entered: 02/01/2018) |
| 02/01/2018 | | Receipt of Transfer of Claim (Fee)(6:16-bk-20478-SY) [claims, trclm] (25.00) Filing Fee. Receipt number 46387921. Fee amount 25.00. (re: Doc# <u>158</u>) (U.S. Treasury) (Entered: 02/01/2018) |
| 02/03/2018 | ● <u>159</u> | BNC Certificate of Notice - Transfer of Claim (RE: related document(s) <u>158</u> Transfer of Claim (Fee) filed by Creditor LVNV Funding LLC) No. of Notices: 1. Notice Date 02/03/2018. (Admin.) (Entered: 02/03/2018) |
| 03/02/2018 | ● <u>160</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>1</u> Voluntary Petition (Chapter 13), <u>36</u> Declaration RE Filing of Tax Returns and Payment of Domestic Supp. Obligations (Preconfirmation)). (Jeanmarie, Cynthia) (Entered: 03/02/2018) |
| 03/15/2018 | ● <u>161</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Jeanmarie, Cynthia) (Entered: 03/16/2018) |
| 04/02/2018 | ● <u>162</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) (Entered: 04/02/2018) |
| 10/01/2018 | ● <u>163</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) (Entered: 10/01/2018) |
| 10/11/2018 | ● <u>164</u> | Proof of service (for proof of plan payment for the month of 9/2018) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Mason, Shari) (Entered: 10/12/2018) |
| 10/11/2018 | ● <u>165</u> | Proof of service (for TFS bill pay) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Mason, Shari) (Entered: 10/12/2018) |
| 03/01/2019 | ● <u>166</u> | Proof of service (re: Income Tax Information) Filed by Debtor Frank Deville . (Potier, Cynthia) (Entered: 03/01/2019) |
| 03/01/2019 | ● <u>167</u> | Certificate of Service Filed by Debtor Frank Deville (RE: related document(s) <u>166</u> Proof of service). (Potier, Cynthia) (Entered: 03/01/2019) |
| 03/12/2019 | ● <u>168</u> | (WITHDRAWN) Notice of Change of Address Filed by Creditor Citibank, N.A.. (Rosello, Fran) Modified on 6/11/2019 (Potier, Cynthia). (Entered: 03/12/2019) |

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| 03/28/2019 | ● <u>169</u> | Transfer of Claim Transfer Agreement 3001 (e) 2 Transferor: Comenity Capital Bank/Paypal Credit (Claim No. 11) To SYNCHRONY BANK Fee Amount \$25 To SYNCHRONY BANK/o Weinstein & Riley, P.S. 2001 Western Ave, Ste 400 Seattle, WA 98121 Filed by Creditor SYNCHRONY BANK. (Attachments: # <u>1</u> Exhibit PROOF OF SERVICE # 2 Exhibit BILL OF SALE) (Wojtanowicz, Bethany)WARNING: See docket entry #170 for corrective action. Modified on 3/28/2019 (Lozano, Tanisha). (Entered: 03/28/2019) |
| 03/28/2019 | ● <u>170</u> | Notice to Filer of Error and/or Deficient Document Other - A \$25.00 fee is required when filing a Transfer of Claim. (RE: related document(s) <u>169</u> Transfer of Claim (Fee) filed by Creditor SYNCHRONY BANK) (Lozano, Tanisha) (Entered: 03/28/2019) |
| 03/28/2019 | | Receipt of Transfer of Claim (Fee)(6:16-bk-20478-SY) [claims,rcldm] (25.00) Filing Fee. Receipt number 48769317. Fee amount 25.00. (re: Doc# <u>169</u>) (U.S. Treasury) (Entered: 03/28/2019) |
| 03/29/2019 | ● <u>171</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) (Entered: 03/29/2019) |
| 03/30/2019 | ● <u>172</u> | BNC Certificate of Notice - Transfer of Claim (RE: related document(s) <u>169</u> Transfer of Claim (Fee) filed by Creditor SYNCHRONY BANK) No. of Notices: 0. Notice Date 03/30/2019. (Admin.) (Entered: 03/30/2019) |
| 06/10/2019 | ● <u>173</u> | Withdrawal re: Filed by Creditor Citibank, N.A. (related document(s) <u>168</u> Notice of Change of Address filed by Creditor Citibank, N.A.). (Capiral, Maria) (Entered: 06/10/2019) |
| 06/12/2019 | ● <u>174</u> | Trustee's Motion to Dismiss Case . (Danielson (TR), Rod (SY)) (Entered: 06/12/2019) |
| 06/14/2019 | ● <u>175</u> | Hearing Set (RE: related document(s) <u>174</u> Trustee's Motion to Dismiss Case (batch)) The Hearing date is set for 11/12/2019 at 10:00 AM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun (Potier, Cynthia) (Entered: 06/14/2019) |
| 07/08/2019 | ● <u>176</u> | Proof of service Filed by Debtor Frank Deville (RE: related document(s) <u>174</u> Trustee's Motion to Dismiss Case). (Potier, Cynthia) (Entered: 07/09/2019) |
| 07/08/2019 | ● <u>177</u> | Certificate of Service Filed by Debtor Frank Deville (RE: related document(s) <u>174</u> Trustee's Motion to Dismiss Case). (Potier, Cynthia) (Entered: 07/09/2019) |
| 07/23/2019 | ● <u>178</u> | Voluntary Dismissal of Motion Filed by Trustee Rod Danielson (TR) (RE: related document(s) <u>174</u> Trustee's Motion to Dismiss Case). (Danielson (TR), Rod) (Entered: 07/23/2019) |
| 09/24/2019 | ● <u>179</u> | Affidavit of Debtors for Amended request for Clerk to enter default under LBR 7055-1(a) Re: Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>1</u> Voluntary Petition (Chapter 13)). (Potier, Cynthia) (Entered: 09/26/2019) |
| 09/24/2019 | ● <u>180</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>179</u> Affidavit). (Potier, Cynthia) (Entered: 09/26/2019) |
| 10/01/2019 | ● <u>181</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) |

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| 10/17/2019 | ● <u>182</u> | Declaration re: Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)1 Voluntary Petition (Chapter 13)). (Potier, Cynthia) (Entered: 10/17/2019) |
| 10/17/2019 | ● <u>183</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)182 Declaration). (Potier, Cynthia) (Entered: 10/17/2019) |
| 10/21/2019 | ● <u>184</u> | Transfer of Claim Transfer Agreement 3001 (e) 2 Transferor: Bank of America, N.A. (Claim No. 6) To Specialized Loan Servicing LLC Fee Amount \$25 To Specialized Loan Servicing LLC8742 Lucent Blvd, Suite 300Highlands Ranch, Colorado 80129 Filed by Creditor Specialized Loan Servicing LLC. (Rafferty, John) (Entered: 10/21/2019) |
| 10/21/2019 | | Receipt of Transfer of Claim (Fee)(6:16-bk-20478-SY) [claims,claim] (25.00) Filing Fee. Receipt number 49954591. Fee amount 25.00. (re: Doc# <u>184</u>) (U.S. Treasury) (Entered: 10/21/2019) |
| 10/23/2019 | ● <u>185</u> | BNC Certificate of Notice - Transfer of Claim (RE: related document(s)184 Transfer of Claim (Fee) filed by Creditor Specialized Loan Servicing LLC) No. of Notices: 1. Notice Date 10/23/2019. (Admin.) (Entered: 10/23/2019) |
| 11/12/2019 | ● <u>186</u> | Notice of Opposition and Request for a Hearing - to (related document(s): <u>184</u> Transfer of Claim (Fee) filed by Creditor Specialized Loan Servicing LLC) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Mason, Shari) (Entered: 11/13/2019) |
| 11/12/2019 | ● <u>187</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)186 Opposition). (Mason, Shari) (Entered: 11/13/2019) |
| 11/12/2019 | ● <u>188</u> | Declaration re: Frank Deville and Dee Deville Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)186 Opposition). (Mason, Shari) (Entered: 11/13/2019) |
| 11/12/2019 | ● <u>189</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)186 Opposition). (Mason, Shari) (Entered: 11/13/2019) |
| 11/25/2019 | ● <u>190</u> | Notice of motion/application for Opposition to Transfer of Claim #6-1 (Docket #186) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville. Related document(s) <u>184</u> Transfer of Claim (Fee) filed by Creditor Specialized Loan Servicing LLC, <u>186</u> Opposition filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville (Mason, Shari). (Entered: 11/26/2019) |
| 11/25/2019 | ● <u>192</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)190 Notice of motion/application). (Mason, Shari) (Entered: 11/26/2019) |
| 11/25/2019 | ● <u>193</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s)190 Notice of motion/application). (Mason, Shari) (Entered: 11/26/2019) |
| 11/25/2019 | ● <u>194</u> | Amended Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville |

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| | | , Debtor Frank Deville (RE: related document(s) <u>190</u> Notice of motion/application). (Mason, Shari) (Entered: 11/26/2019) |
| 11/26/2019 | ● <u>191</u> | Hearing Set on Opposition to Transfer of Claim - The Hearing date is set for 1/7/2020 at 01:30 PM at Crtrm 302, 3420 Twelfth St., Riverside, CA 92501. The case judge is Scott H. Yun. Related document(s) <u>184</u> Transfer of Claim (Fee) filed by Creditor Specialized Loan Servicing LLC (Mason, Shari). (Entered: 11/26/2019) |
| 01/07/2020 | ● <u>195</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville ; Debtor Frank Deville (RE: related document(s) <u>49</u> Amended Chapter 13 Plan). (Potier, Cynthia) (Entered: 01/08/2020) |
| 01/07/2020 | ● <u>196</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>49</u> Amended Chapter 13 Plan). (Potier, Cynthia) (Entered: 01/08/2020) |
| 01/07/2020 | ● <u>198</u> | Document/Hearing Held - DENIED - (RE: related document(s) <u>184</u> Transfer of Claim (Fee) filed by Creditor Specialized Loan Servicing LLC) (Potier, Cynthia) (Entered: 01/09/2020) |
| 01/08/2020 | ● <u>197</u> | Order Denying Motion/Opposition to Transfer of Claim #6-1 (BNC-PDF) (Related Doc # <u>190</u>) Signed on 1/8/2020 (Potier, Cynthia) (Entered: 01/08/2020) |
| 01/10/2020 | ● <u>199</u> | BNC Certificate of Notice - PDF Document. (RE: related document(s) <u>197</u> Order on Generic Motion (BNC-PDF)) No. of Notices: 1, Notice Date 01/10/2020. (Admin.) (Entered: 01/10/2020) |
| 01/21/2020 | ● <u>200</u> | Notice of Appeal and Statement of Election to U.S. District Court (Official Form 417A) - Fee Amount: \$298.00; filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>197</u> Order on Generic Motion (BNC-PDF)). Appellant Designation due by 2/4/2020. (Milano, Sonny) COMMENT: U.S. District Court case number: 5:20-CV-00158-JGB. Modified on 1/24/2020 (Hawkinson, Susan). (Entered: 01/21/2020) |
| 01/21/2020 | ● | Receipt of Appeal Filing Fee - \$293.00 by 03. Receipt Number 20239357. (admin) (Entered: 01/21/2020) |
| 01/21/2020 | ● | Receipt of Noticing Fee - \$5.00 by 03. Receipt Number 20239357. (admin) (Entered: 01/21/2020) |
| 01/22/2020 | ● <u>201</u> | Notice of referral of appeal to U. S. District Court with certificate of mailing (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) (Hawkinson, Susan) (Entered: 01/22/2020) |
| 01/22/2020 | ● <u>202</u> | Transcript Order Form related to an Appeal, regarding Hearing Date - No hearing date provided. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A)). (Hawkinson, Susan) WARNING: There is no hearing information to process the transcript. Modified on 1/23/2020 (Potier, Cynthia). (Entered: 01/23/2020) |
| 01/23/2020 | ● <u>203</u> | Notice of transcripts re hearing date - 1/7/2020. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A)). (Hawkinson, Susan) (Entered: 01/23/2020) |

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| 01/23/2020 | ● <u>204</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>202</u> Transcript Order Form (Public Request), <u>203</u> Notice of transcripts). (Hawkinson, Susan) (Entered: 01/23/2020) |
| 01/24/2020 | ● <u>205</u> | Notice RE: Appeal from Bankruptcy Court (USDC). U.S. District Court case number: 5:20-CV-00158-JGB (Filed originally at USDC on 1/22/2020) (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) (Hawkinson, Susan) (Entered: 01/24/2020) |
| 02/03/2020 | ● <u>207</u> | Statement of Issues on Appeal Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A)). (Hawkinson, Susan) (Entered: 02/05/2020) |
| 02/03/2020 | ● <u>208</u> | Proof of service re: a corrected transcript order form, certificate of service; Statement of issues served notice of transcript(s); designated for an appeal on 1/23/2020; declaration of debtor(s) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>207</u> Statement of Issues on Appeal). (Hawkinson, Susan) (Entered: 02/05/2020) |
| 02/03/2020 | ● <u>209</u> | Declaration of Frank and Dee Deville Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A)). (Hawkinson, Susan) (Entered: 02/05/2020) |
| 02/07/2020 | ● <u>210</u> | Transcript Order Form related to an Appeal, regarding Hearing Date 01/07/20 Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>197</u> Order on Generic Motion (BNC-PDF)). (Potier, Cynthia) (Entered: 02/10/2020) |
| 02/07/2020 | ● <u>211</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>210</u> Transcript Order Form (Public Request)). (Potier, Cynthia) (Entered: 02/10/2020) |
| 02/10/2020 | ● <u>212</u> | Transcript Record Transmittal (Court transcript records have been uploaded to FDS). For Order Number: 20-SY-003. RE Hearing Date: 01/07/20, [TRANSCRIPTION SERVICE PROVIDER: Exceptional Reporting Services, Telephone number 361-949-2988 ext. 0.] (RE: related document(s) <u>210</u> Transcript Order Form (Public Request) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) (Potier, Cynthia) (Entered: 02/10/2020) |
| 03/05/2020 | ● <u>214</u> | Declaration Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Potier, Cynthia) (Entered: 03/06/2020) |
| 03/05/2020 | ● <u>215</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>214</u> Declaration). (Potier, Cynthia) (Entered: 03/06/2020) |
| 03/06/2020. | ● <u>213</u> | Trustee's Notice of Intent to Increase Dividend to Unsecured Creditors . (Danielson (TR), Rod (SY)) (Entered: 03/06/2020) |
| 03/09/2020 | ● <u>216</u> | Appeal deficiency letter to USDC re: missing Designation of Record and Transcripts (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville) (Hawkinson, Susan) (Entered: 03/09/2020) |

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| 03/11/2020 | ● <u>217</u> | Transcript regarding Hearing Held 1/7/20 RE: DEBTORS' OBJECTION TO TRANSFER OF CLAIM AGREEMENT 3001(e)2 FOR CLAIM #6, FILED BY SPECIALIZED LOAN SERVICING, LLC [DKT.184]. Remote electronic access to the transcript is restricted until 06/9/2020. The transcript may be viewed at the Bankruptcy Court Clerk's Office on a public terminal or purchased through the Transcription Service Provider before the transcript access restriction has ended. [TRANSCRIPTION SERVICE PROVIDER: Exceptional Reporting Services, Telephone number 3619492988.]. Notice of Intent to Request Redaction Deadline Due By 3/18/2020. Redaction Request Due By 04/1/2020. Redacted Transcript Submission Due By 04/13/2020. Transcript access will be restricted through 06/9/2020. (Hudson, Toni) (Entered: 03/11/2020) |
| 03/11/2020 | ● <u>218</u> | Declaration of Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A)). (Potier, Cynthia) (Entered: 03/12/2020) |
| 03/11/2020 | ● <u>219</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>218</u> Declaration). (Potier, Cynthia) (Entered: 03/12/2020) |
| 04/01/2020 | ● <u>220</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) (Entered: 04/01/2020) |
| 04/16/2020 | ● <u>221</u> | Notice of Change of Address Filed by Creditor OneMain Financial. (Bowers, Angela) (Entered: 04/16/2020) |
| 05/13/2020 | ● <u>222</u> | Transfer of Claim Transfer Agreement 3001 (e) 2 Transferor: Specialized Loan Servicing LLC (Claim No. 6) To Specialized Loan Servicing LLC Fee Amount \$25 To Specialized Loan Servicing LLC8742 Lucent Blvd, Suite 300Highlands Ranch, Colorado 80129 Filed by Creditor Specialized Loan Servicing LLC. (Lea, Natalie) (Entered: 05/13/2020) |
| 05/13/2020 | | Receipt of Transfer of Claim (Fee)(6:16-bk-20478-SY) [claims,trclm] (25.00) Filing Fee. Receipt number 51104741. Fee amount 25.00. (re: Doc# <u>222</u>) (U.S. Treasury) (Entered: 05/13/2020) |
| 05/15/2020 | ● <u>223</u> | BNC Certificate of Notice - Transfer of Claim (RE: related document(s) <u>222</u> Transfer of Claim (Fee) filed by Creditor Specialized Loan Servicing LLC) No. of Notices: 1. Notice Date 05/15/2020. (Admin.) (Entered: 05/15/2020) |
| 07/22/2020 | ● <u>224</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) (Entered: 07/22/2020) |
| 07/23/2020 | ● <u>225</u> | BAP/USDC dismissal of appeal Re: Appeal BAP/USDC Number: 5:20-CV-00158-JGB (Filed at USDC on 6/3/20) (RE: related document(s) <u>200</u> Notice of Appeal and Statement of Election (Official Form 417A) filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville, <u>203</u> Notice of transcripts filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville, <u>207</u> Statement of Issues on Appeal filed by Debtor Frank Deville, Joint Debtor Dee Anetionette Marie Deville). (Hawkinson, Susan) (Entered: 07/23/2020) |
| 08/06/2020 | ● <u>226</u> | Certification About a Financial Management Course for Debtor 1 (Official Form 423) Filed by Debtor Frank Deville . (Romero, Kimberly) (Entered: 08/06/2020) |
| 08/06/2020 | ● <u>227</u> | Certification About a Financial Management Course for Debtor 2 (Joint Debtor) (Official Form 423) Filed by Joint Debtor Dee Anetionette Marie Deville . (Romero, Kimberly) (Entered: 08/06/2020) |

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| 08/06/2020 | ● <u>228</u> | Document/Request for Balance Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (Potier, Cynthia) (Entered: 08/06/2020) |
| 08/06/2020 | ● <u>229</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>228</u> Document). (Potier, Cynthia) (Entered: 08/06/2020) |
| 08/06/2020 | ● <u>230</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>228</u> Document). (Potier, Cynthia) (Entered: 08/06/2020) |
| 09/30/2020 | ● <u>231</u> | Chapter 13 Trustee Periodic Accounting Report . (Danielson (TR), Rod (SY)) (Entered: 09/30/2020) |
| 10/09/2020 | ● <u>232</u> | Debtor's certification of compliance under 11 U.S.C. Section 1328(a) and Notice of application for entry of discharge (BNC) Filed by Joint Debtor Dee Anetionette Marie Deville . (Hawkinson, Susan) (Entered: 10/09/2020) |
| 10/09/2020 | ● <u>233</u> | Declaration re: of Frank and Dee Deville Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Hawkinson, Susan) (Entered: 10/09/2020) |
| 10/09/2020 | ● <u>234</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>233</u> Declaration). (Hawkinson, Susan) (Entered: 10/09/2020) |
| 10/09/2020 | ● <u>235</u> | Debtor's certification of compliance under 11 U.S.C. Section 1328(a) and Notice of application for entry of discharge (BNC) Filed by Debtor Frank Deville . (Hawkinson, Susan) (Entered: 10/09/2020) |
| 10/11/2020 | ● <u>236</u> | BNC Certificate of Notice (RE: related document(s) <u>232</u> Debtor's certification and application for entry of discharge - Chapter 13 (BNC) filed by Joint Debtor Dee Anetionette Marie Deville) No. of Notices: 33. Notice Date 10/11/2020. (Admin.) (Entered: 10/11/2020) |
| 10/11/2020 | ● <u>237</u> | BNC Certificate of Notice (RE: related document(s) <u>235</u> Debtor's certification and application for entry of discharge - Chapter 13 (BNC) filed by Debtor Frank Deville) No. of Notices: 33. Notice Date 10/11/2020. (Admin.) (Entered: 10/11/2020) |
| 10/26/2020 | ● <u>238</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>234</u> Certificate of Service, <u>235</u> Debtor's certification and application for entry of discharge - Chapter 13 (BNC)). (Potier, Cynthia) (Entered: 10/26/2020) |
| 11/02/2020 | ● <u>239</u> | Notice of Change of Address Filed by Creditor Specialized Loan Servicing LLC. (Lea, Natalie) (Entered: 11/02/2020) |
| 03/19/2021 | ● <u>240</u> | Debtor's certification of compliance under 11 U.S.C. Section 1328(a) and Notice of application for entry of discharge (BNC) Filed by Debtor Frank Deville . (Romero, Kimberly) (Entered: 03/19/2021) |
| 03/19/2021 | ● <u>241</u> | Debtor's certification of compliance under 11 U.S.C. Section 1328(a) and Notice of application for entry of discharge (BNC) Filed by Joint Debtor Dee Anetionette Marie Deville . (Romero, Kimberly) (Entered: 03/19/2021) |

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| 03/19/2021 | ● <u>242</u> | Declaration of Frank and Dee Deville. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Romero, Kimberly) (Entered: 03/19/2021) |
| 03/19/2021 | ● <u>243</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Romero, Kimberly) (Entered: 03/19/2021) |
| 03/19/2021 | ● <u>244</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Romero, Kimberly) (Entered: 03/19/2021) |
| 03/19/2021 | ● <u>245</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>240</u> Debtor's certification and application for entry of discharge - Chapter 13 (BNC), <u>241</u> Debtor's certification and application for entry of discharge - Chapter 13 (BNC), <u>242</u> Declaration). (Romero, Kimberly) (Entered: 03/19/2021) |
| 03/21/2021 | ● <u>246</u> | BNC Certificate of Notice (RE: related document(s) <u>240</u> Debtor's certification and application for entry of discharge - Chapter 13 (BNC) filed by Debtor Frank Deville) No. of Notices: 30. Notice Date 03/21/2021. (Admin.) (Entered: 03/21/2021) |
| 03/21/2021 | ● <u>247</u> | BNC Certificate of Notice (RE: related document(s) <u>241</u> Debtor's certification and application for entry of discharge - Chapter 13 (BNC) filed by Joint Debtor Dee Anetionette Marie Deville) No. of Notices: 30. Notice Date 03/21/2021. (Admin.) (Entered: 03/21/2021) |
| 03/22/2021 | ● <u>248</u> | Declaration/Supplemental of Frank and Dee Deville. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Attachments: # <u>1</u> Part 2 of 2) (Romero, Kimberly) (Entered: 03/22/2021) |
| 03/22/2021 | ● <u>249</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Romero, Kimberly) (Entered: 03/22/2021) |
| 03/22/2021 | ● <u>250</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Romero, Kimberly) ; CORRECTION: Entered on incorrect case. Modified on 3/26/2021 (Eudy, Debra). Additional attachment(s) added on 3/26/2021 (Romero, Kimberly). (Entered: 03/22/2021) |
| 03/22/2021 | ● <u>251</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>248</u> Declaration). (Romero, Kimberly) (Entered: 03/23/2021) |
| 03/23/2021 | ● <u>252</u> | Declaration/Second Supplemental. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Romero, Kimberly) (Entered: 03/24/2021) |
| 03/23/2021 | ● <u>253</u> | Proof of service. Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>252</u> Second Supplemental Declaration). (Romero, Kimberly) (Entered: 03/24/2021) |
| 03/23/2021 | ● <u>254</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>252</u> Declaration, <u>253</u> Proof of service). (Romero, Kimberly) (Entered: 03/24/2021) |
| 05/10/2021 | ● <u>255</u> | Chapter 13 Trustee's Notice of Intent to File Trustee's Final Report and Account, Obtain Discharge of Debtor and Close Case . (Danielson (TR), Rod) (Entered: 05/10/2021) |
| 05/17/2021 | ● <u>256</u> | Notice of Final Cure Mortgage Payment re: Rule 3002.1 . Filed by Trustee Rod |

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| | | Danielson (TR). (Danielson (TR), Rod) (Entered: 05/17/2021) |
| 05/17/2021 | ● <u>257</u> | Notice of Final Cure Mortgage Payment re: Rule 3002.1 . Filed by Trustee Rod Danielson (TR). (Danielson (TR), Rod) (Entered: 05/17/2021) |
| 05/19/2021 | ● <u>258</u> | Notice of Final Cure Mortgage Payment re: Rule 3002.1 . Filed by Trustee Rod Danielson (TR). (Danielson (TR), Rod) (Entered: 05/19/2021) |
| 05/20/2021 | ● <u>doc</u> | Response to Notice of Final Cure Payment Rule 3002.1 (Claim # 4) with Certificate of Service Filed by Creditor Wells Fargo Bank, N.A. (related document(s) <u>257</u> Notice of Final Cure Mortgage Payment filed by Trustee Rod Danielson (TR)). (Delmotte, Joseph) (Entered: 05/20/2021) |
| 06/03/2021 | ● <u>doc</u> | Response to Notice of Final Cure Payment Rule 3002.1 (Claim # 6) with Certificate of Service Filed by Creditor Towd Point Mortgage Trust 2020-1 (related document(s) <u>256</u> Notice of Final Cure Mortgage Payment filed by Trustee Rod Danielson (TR)). (Suri, Mukta) (Entered: 06/03/2021) |
| 06/07/2021 | ● <u>259</u> | Declaration re: Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>255</u> Notice of Intent to File Trustees Final Rpt and Acct-Ch 13 (Cases filed on or after 10/17/05)(batch)). (Potier, Cynthia) (Entered: 06/07/2021) |
| 06/07/2021 | ● <u>260</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>259</u> Declaration). (Potier, Cynthia) (Entered: 06/07/2021) |
| 06/10/2021 | ● <u>261</u> | Declaration re: non-receipt of obj to trustee's final report - Notice of requirement to file a debtor's certification of compliance under 11 U.S.C. Section 1328(a) and Application for Entry of Discharge - Chapter 13 (BNC) Filed by Trustee Rod Danielson (TR). (Danielson (TR), Rod) (Entered: 06/10/2021) |
| 06/10/2021 | ● <u>262</u> | Withdrawal re: Filed by Trustee Rod Danielson (TR). (Danielson (TR), Rod) (Entered: 06/10/2021) |
| 06/13/2021 | ● <u>263</u> | BNC Certificate of Notice (RE: related document(s) <u>261</u> Decl. re: non-receipt of obj. to Trustee's Final Report - Ntc re: req. to file debtor's cert. (BNC) filed by Trustee Rod Danielson (TR)) No. of Notices: 31. Notice Date 06/13/2021. (Admin.) (Entered: 06/13/2021) |
| 06/15/2021 | ● <u>264</u> | Declaration re: Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville Related document(s) <u>263</u> BNC Certificate of Notice. Modified on 6/16/2021 (Carrillo, Tanisha). (Entered: 06/16/2021) |
| 06/15/2021 | ● <u>265</u> | Request to Withdrawal document Filed by Debtor Frank Deville and Joint Debtor Dee Anetionette Marie Deville (RE: related document(s) <u>263</u> BNC Certificate of Notice) (Carrillo, Tanisha) (Entered: 06/16/2021) |
| 06/15/2021 | ● <u>266</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>264</u> Declaration, <u>265</u> Document). (Carrillo, Tanisha) (Entered: 06/16/2021) |
| 06/15/2021 | ● <u>267</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>264</u> Declaration, <u>265</u> Document, <u>266</u> Certificate of Service). (Carrillo, Tanisha) (Entered: 06/16/2021) |

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| 06/17/2021 | ● <u>268</u> | Proof of service (AMENDED) Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville . (Potier, Cynthia) (Entered: 06/17/2021) |
| 06/30/2021 | ● <u>269</u> | Final report of trustee in asset case (Chapter 13) - CASE CONCLUDED Filed by Trustee Rod Danielson (TR). (Danielson (TR), Rod) (Entered: 06/30/2021) |
| 06/30/2021 | ● <u>270</u> | Proof of service Filed by Trustee Rod Danielson (TR). (Danielson (TR), Rod) (Entered: 06/30/2021) |
| 07/09/2021 | ● <u>273</u> | ORDER OF DISCHARGE - Chapter 13 after completion of plan - cases filed after 11/05/90 for Both Debtors (BNC) (Mason, Shari) (Entered: 07/09/2021) |
| 07/11/2021 | ● <u>274</u> | BNC Certificate of Notice (RE: related document(s) <u>273</u> ORDER OF DISCHARGE - Chapter 13 (after completion of plan - cases filed after 11/05/90) (BNC)) No. of Notices: 23. Notice Date 07/11/2021. (Admin.) (Entered: 07/11/2021) |
| 07/12/2021 | ● <u>275</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>273</u> ORDER OF DISCHARGE - Chapter 13 (after completion of plan - cases filed after 11/05/90) (BNC)). (Mason, Shari) (Entered: 07/12/2021) |
| 07/12/2021 | ● <u>276</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>273</u> ORDER OF DISCHARGE - Chapter 13 (after completion of plan - cases filed after 11/05/90) (BNC)). (Mason, Shari) (Entered: 07/12/2021) |
| 07/13/2021 | ● <u>277</u> | Certificate of Service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>274</u> BNC Certificate of Notice). (Mason, Shari) (Entered: 07/13/2021) |
| 07/13/2021 | ● <u>278</u> | Proof of service Filed by Joint Debtor Dee Anetionette Marie Deville , Debtor Frank Deville (RE: related document(s) <u>274</u> BNC Certificate of Notice). (Mason, Shari) (Entered: 07/13/2021) |
| 08/12/2021 | ● <u>279</u> | Bankruptcy Case Closed - PLAN COMPLETED. The plan in the above referenced case has been fully implemented. Debtor has been discharged in accordance with the order of discharge, and therefore, it is ordered that the Trustee is discharged, the bond is exonerated and this case is therefore closed. (Mason, Shari) (Entered: 08/12/2021) |

EXHIBIT E

EXHIBIT F

No. 20-56328

**United States Court Of Appeals For
The Ninth Circuit**

FRANK DEVILLE, et al.,
Plaintiffs and Appellants,

vs.

SPECIALIZED LOAN SERVICING LLC, et al.,
Defendants and Appellees.

Appeal from United States District Court, Central District of California, Case No.
20-cv-05576 JGB Hon. Jesus G. Bernal, United States District Judge

**Further Excerpts of Record
Index Volume
[For Pro Se Litigants Appellants' Reply Brief]**

Frank Deville
Dee Deville
Po Box 2042
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Pursuant to Circuit Rule 30-1.4 of the Federal Rule of Appellate Procedure, Plaintiffs and appellants Frank Deville and Dee Deville respectfully submits the following excerpts of record:

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| 6/15/2021 | 264 | Declaration | 55-96 |
| 6/15/2021 | 265 | Letter/clerk Request to withdraw dkt #263 | 98-119 |
| 6/15/2021 | 267 | Proof of service | 121-123 |
| 6/13/2021 | 263 | Certificate of Notice | 124-128 |
| 6/10/21 | 262 | Withdrawal of duplicate notice of final cure payment | 129 |
| 6/10/21 | 261 | Declaration no receipt/objection | 130 |
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| 6/7/2021 | 260 | Certificate of service | 134-136 |
| 6/6/2021 | | Correspondence to United states trustee | 137-171 |
| 6/3/21 | Doc | Response to Notice of Final Cure Payment Form 4100R | 173-175 |
| 6/3/21 | Doc | Wells Response to Notice of Final Cure Payment Form 4100R | 177-179 |
| 2/26/2021 | 16-1 | Appellants emergency motion | 181-247 |
| 2/3/2020 | 9 | Statement of issues/letter to judge | 248-250 |
| 3/12/2020 | 16 | Declaration of plaintiff | 251-257 |

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| 3/12/2020 | | Hearing transcript/missing in doc but was filed | 258 |
| 10/14/20 | | Assignment of Deed of Trust | 259-261 |
| 9/16/2019 | | Last five Payment history | 262-266 |
| 12/12/17 | | Proof of Service of adversary complaint | 267-272 |
| 10/17/16 | | Mortgage statement history | 273-179 |
| 9/3/2004 | | Original Deed of Trust | 280-298 |

DATED: July 1, 2021

By: /s/ Frank Deville

Pro Se Litigant

By: /s/ Dee Deville

Pro Se Litigant

EXHIBIT G

No. 20-56328

**United States Court Of Appeals For
The Ninth Circuit**

FRANK DEVILLE,et al.,
Plaintiffs and Appellants,

vs.

SPECIALIZED LOAN SERVICING LLC,et al.,
Defendants and Appellees.

Appeal from United States District Court, Central District of California, Case No.
20-cv-05576 JGB Hon. Jesus G. Bernal, United States District Judge

Further Excerpts of Record
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[For Pro Se Litigants Appellants' Reply Brief]

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Pursuant to Circuit Rule 30-1.4 of the Federal Rule of Appellate Procedure, Plaintiffs and appellants Frank Deville and Dee Deville respectfully submits the following excerpts of record:

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| 121 | 10/19/20 | ADR Request | 362 |
| 121-1 | 10/19/20 | Order for ADR | 363 |
| 122 | 10/19/20 | Planning Meeting Report | 364-380 |
| 122 | 10/19/20 | Joint Proposed Scheduling Order | 386-389 |
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Please take NOTICE that, under Code of Civil Procedure section 902.1, Xavier Becerra, in his official capacity as Attorney General of California, hereby intervenes in the above-entitled appeal.

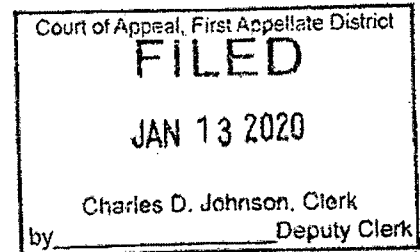
FACT AND POLICY BACKGROUND

In 1982, the Legislature first enacted the Housing Accountability Act, Government Code section 65589.5, because “[t]he lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.” (*Id.*, § 65589.5, subd. (a)(1)(A).) “The excessive cost of the state’s housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.” (*Id.*, § 65589.5, subd. (a)(1)(B).) “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.” (*Id.*, § 65589.5, subd. (a)(1)(C).)

Since then, the Legislature has amended the Housing Accountability Act several times, because:

California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives. (Gov. Code, § 65589.5, subd. (a)(2)(A).) “The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply,

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COURT OF APPEAL OF THE STATE OF CALIFORNIA,
FIRST APPELLATE DISTRICT

**SAN FRANCISCO BAY AREA RENTERS
FEDERATION, ET AL.,**

Petitioners/Appellants,

v.

CITY OF SAN MATEO, ET AL.,

Respondents/Respondents

Case No. A159320¹

(San Mateo County Superior
Court Case No. 18-CIV-
02105)

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INTERVENTION (UNDER
CODE OF CIVIL
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902.1)**

¹ Manual filing notification: under Local Rule 12, subdivision (i), a manual (instead of an electronic) filing is being made here, because it is not possible presently to make an electronic filing. This Court assigned a case number for this appeal for the first time today, but that number has not yet been input into the Court's e-filing system, precluding electronic filing.

EXHIBIT J

In the Supreme Court of the State of California

KWANG K. SHEEN,

Plaintiff and Appellant,

v.

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

Defendant and Respondent.

Case No. S258019

Second Appellate District, Div. Eight, Case No. B289003
Los Angeles County Superior Court, Case No. BC631510
The Honorable Judge Robert L. Hess

**BRIEF OF THE CALIFORNIA ATTORNEY GENERAL AS
AMICUS CURIAE IN SUPPORT OF PLAINTIFF**

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INTRODUCTION AND STATEMENT OF INTEREST

The Attorney General submits this *amicus curiae* brief to provide additional support for the position that mortgage servicers owe a duty under California law to act with reasonable care when handling a distressed homeowner's application for loan modification. The costs imposed by unnecessary foreclosures—which are borne not only by families forced out of their homes, but also by their communities and the State's economy—are well documented and steep. Combating abuse in the mortgage marketplace and preserving homeownership have been among the Attorney General's top concerns since the Great Recession, and they remain critical to the State's well-being today.

The Court has asked whether a mortgage servicer owes a homeowner a duty of care to refrain from making material misrepresentations about the status of a foreclosure sale after a homeowner has submitted, and the servicer has agreed to review, the homeowner's application to modify a mortgage loan. The Attorney General submits that, consistent with decades of precedent, a duty of care arises in these circumstances given the parties' special relationship, the homeowner's reliance on the servicer's expertise, and the significant adverse implications for public welfare if mortgage servicers may act free from any potential liability in negligence.¹ A duty of care would not impose onerous obligations on servicers, and would not require servicers to approve modifications if homeowners do not qualify. Rather, the duty simply requires servicers to act with reasonable care when handling a request for loan modification—such as by acknowledging and processing modification requests in a timely fashion; tracking and

¹ The Attorney General takes no position on the ultimate merits of the case, only on the legal and public-policy questions of whether mortgage servicers owe homeowners a duty of care in this context.

organizing homeowners' paperwork to avoid unreasonable delay and the need for re-submission; providing correct information to homeowners; and accurately evaluating homeowners' eligibility for modification or other relief.

This duty exists regardless of whether any particular servicer and borrower are in privity of contract. Contract law does not provide homeowners adequate safeguards against substandard mortgage servicing. Most homeowners do not have the technical knowledge of mortgage servicing that would be necessary to request meaningful, consumer-protective contract terms. Moreover, most homeowners never contract directly with their mortgage servicers in any capacity, and the minority of homeowners who do contract directly with their servicers have no opportunity to bargain over their servicers' performance, including how they will handle a modification request.

Other causes of action that do not require a duty of care, such as promissory estoppel and misrepresentation, also do not adequately protect homeowners. These causes of action do not address the type of harmful conduct homeowners are most likely to face from their servicers—not intentional or deceitful acts, but sloppiness, manifesting in errors and unreasonable delays in the handling of a homeowner's account. Negligence occupies an important space, protecting homeowners from conduct that, though unintentional, is still highly detrimental to homeowners who need their servicers' help to avoid foreclosure.

Recognizing servicers' duty of care to distressed homeowners is not only consistent with this Court's precedent—which expressly takes into account public policy rationales for imposing a duty of care—but also aligns with laws the Legislature has passed to ensure that homeowners who are facing financial difficulties receive meaningful consideration for loan modification. The Attorney General urges the Court to make clear that

servicers owe homeowners a duty of reasonable care in tort law during the loan-modification process.

ARGUMENT

I. MORTGAGE SERVICERS OWE HOMEOWNERS A DUTY OF REASONABLE CARE IN HANDLING MORTGAGE MODIFICATION REQUESTS

California's approach to tort law has long been pragmatic and cognizant of policy concerns. Our courts have "repeatedly eschewed overly rigid common law formulations of duty in favor of allowing compensation for foreseeable injuries caused by a defendant's want of ordinary care." (*J'Aire Corp. v. Gregory* (1979) 24 Cal.3d 799, 805 (*J'Aire*)). Although the existence of a duty is a question of law, duty is "not sacrosanct in itself, but only an expression of the sum total of those considerations of policy which lead the law to say that the particular plaintiff is entitled to protection." (*Beacon Residential Community Assn. v. Skidmore, Owings & Merrill LLP* (2014) 59 Cal.4th 568, 573 (*Beacon*), quoting *Bily v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 397 (*Bily*)).

Decades of precedent establish that a duty of care arises where two parties have a special relationship, meaning where one engages in a certain activity for the other's benefit; where one party relies on the other's specialized expertise or is otherwise less capable than the other party of protecting its interests; or where the parties' relationship has significant implications for public welfare. These categories are not wholly discrete, but share overlapping considerations, and all reflect a policy judgment that finding a duty of care is reasonable under the circumstances, incentivizes socially responsible conduct on the part of potential tortfeasors, and is necessary to provide recourse to injured parties. Each of these considerations provides a basis for the Court to recognize that mortgage

servicers owe a duty to act with reasonable care when handling modification requests.

A. A Duty of Care Exists Where the Parties Have a Special Relationship

For over 60 years, California courts have held that a duty of care arises where a plaintiff and defendant have a “special relationship.” As this Court recently explained, “What we mean by special relationship is that the plaintiff was an intended beneficiary of a particular transaction but was harmed by the defendant’s negligence in carrying it out.” (*Southern California Gas Leak Cases* (2019) 7 Cal.5th 391, 400 (*Gas Leak Cases*), citing *J’Aire, supra*, 24 Cal.3d at p. 804 and *Biakanja v. Irving*, (1958) 49 Cal.2d 647, 650 (*Biakanja*).

Biakanja is the leading special-relationship case and sets forth six factors for determining whether a special relationship exists that gives rise to a duty of care:

[1] the extent to which the transaction was intended to affect the plaintiff, [2] the foreseeability of harm to him, [3] the degree of certainty that the plaintiff suffered injury, [4] the closeness of the connection between the defendant’s conduct and the injury suffered, [5] the moral blame attached to the defendant’s conduct, and [6] the policy of preventing future harm.

(49 Cal.2d at p. 650). This Court has cited *Biakanja* and analyzed its factors in nearly three dozen decisions, including several times within the last decade, confirming its enduring importance to duty-of-care analyses.²

² See *Centinela Freeman Emergency Medical Associates v. Health Net of California, Inc.* (2016) 1 Cal.5th 994, 1014-1017 (assessing each *Biakanja* factor and holding that health care plans owe duty of care to providers of emergency medical services to ensure payment claims submitted by emergency providers are not delegated to insolvent agents of health care plans); *Beacon, supra*, 59 Cal.4th at pp. 585-586 (assessing each *Biakanja* factor and holding that architecture firm responsible for

(continued...)

In *Biakanja*, *supra* 49 Cal.2d at p. 648, the plaintiff and defendant were not in privity of contract: plaintiff was the sole beneficiary of a will that the defendant notary had drafted but failed to have properly attested. Although the *Biakanja* test has often been used for negligence cases involving third-party plaintiffs, its use is not limited to that context. In *Connor v. Great Western Savings and Loan Association* (1968) 69 Cal.2d 850, 865-868 (*Connor*), for example, this Court applied the *Biakanja* test after acknowledging that the parties were not strangers. (See *id.* at pp. 867-868 [holding that plaintiffs, who were in privity with bank that had originated their mortgages, could sue bank in negligence for its role in facilitating the faulty construction of their homes].)

The *Biakanja* factors strongly support finding a duty here, for all the reasons discussed at length in Plaintiff's opening brief. The first two factors—"the extent to which the transaction was intended to affect the plaintiff" and "the foreseeability of harm to him," *Biakanja*, *supra*, 49 Cal.2d at p. 650, are critically important. (See *Tarasoff v. Regents of Univ. of California* (1976) 17 Cal.3d 425, 434 [calling foreseeability "the most important of [the duty-of-care] considerations"]; *T.H. v. Novartis Pharmaceuticals Corp.* (2017) 4 Cal.5th 145, 166 [similar]). Both these factors unambiguously point to a duty of care.

(...continued)

design of residential building owes duty of care to future owners of the building); see also *Gas Leak Cases*, *supra*, 7 Cal.5th at pp. 400-403 (discussing *Biakanja*, and evaluating countervailing considerations, in holding that economic-loss doctrine bars recovery of economic damages by businesses affected by months-long gas leak); *Goonewardene v. ADP, LLC* (2019) 6 Cal.5th 817, 837-841 (citing *Biakanja* and finding no special relationship in holding that payroll vendor does not owe duty of care to employee of company to which it provides services).

Loan modification processes generally, and servicers' communications with homeowners individually, are clearly intended to affect homeowners, even if other entities with an interest in the property are also impacted. Harm to homeowners similar to what Plaintiff has alleged here—including not just the loss of one's home to foreclosure, but also missed opportunities to pursue other mitigation options and otherwise limit damage to one's credit history, see Op. Br. at p. 42—is foreseeable if servicers mishandle modification applications or make inaccurate statements to homeowners about the status of modification or foreclosure. (See *Clinton v. Select Portfolio Servicing, Inc.* (E.D. Cal. 2016) 225 F.Supp.3d 1168, 1175 [denying motion to dismiss negligence claim, where homeowner pleaded servicer's delay in handling modification application caused damages including lost opportunity to "prevent[] further arrearage," decline in homeowner's credit score, and costs incurred due to "repeatedly faxing and mailing documents"].)

The third, fourth, and fifth *Biakanja* factors—"the degree of certainty that the plaintiff suffered injury," "closeness of the connection between the defendant's conduct and the injury suffered, [and] the moral blame attached to the defendant's conduct," *supra*, 49 Cal.2d at p. 650—generally weigh in favor of recognizing a duty where a plaintiff alleges their servicer's failure to act with reasonable care prevented them from obtaining a mortgage modification or pursuing other options in lieu of foreclosure. Further, as some appellate decisions finding a duty have noted, "it is highly relevant" to the fifth *Biakanja* factor "that the borrower's 'ability to protect his own interests in the loan modification process is practically nil' and the bank holds 'all the cards.'" (*Alvarez v. BAC Home Loans Servicing, L.P.* (2014) 228 Cal.App.4th 941, 949 (*Alvarez*), quoting *Jolley v. Chase Home Finance, LLC* (2013) 213 Cal.App.4th 872, 900 (*Jolley*); see also *Rossetta v.*

CitiMortgage, Inc. (2017) 18 Cal.App.5th 628, 642, quoting *Alvarez, supra*, at p. 949.)

The sixth *Biakanja* factor, *supra*, 49 Cal.2d at p. 650, asks whether recognizing a duty of care would advance a public policy “of preventing future harm.” Like foreseeability, this is a crucial factor driving the duty analysis. (See *Barrera v. State Farm Mut. Automobile Ins. Co.* (1969) 71 Cal.2d 659, 679 (*Barrera*) [“basic reason for the imposition of a duty” is to avoid “known hazard” to public]; *Burgess v. Superior Court* (1992) 2 Cal.4th 1064, 1081 (*Burgess*) [“One of the purposes of tort law is to deter future harm.”].) This factor also weighs in favor of a duty. There is little doubt that careless mortgage-servicing practices harm homeowners and the communities in which they live. This is particularly true of homeowners who experience financial difficulty and reach out to their mortgage servicer in hope of finding an alternative to foreclosure.

Homeownership confers a variety of benefits on families and the areas where they live. Homeownership boosts families financially, allowing them to accumulate more wealth than non-owners, with particularly strong effects for Black and Latino homeowners. (See Goodman & Mayer, *Homeownership and the American Dream* (2018) 32:1 J. of Economic Perspectives 31, 53.³) Owning a home typically has financial advantages over renting, and on average results in a higher return than other types of investments. (*Id.* at pp. 45-47 [analysis of financial return associated with median home purchased in 2002].) Homeowners are also more likely to be engaged in voluntary or political organizations in their communities, and are found to have higher rates of happiness and self-satisfaction than renters. (See, e.g., Rohe et al., *The social benefits and costs of*

³ Available at <<https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.32.1.31>> (as of Sep. 15, 2020).

homeownership: a critical assessment of the research in *The Affordable Housing Reader* (Tighe & Mueller, eds., 2013) pp. 197-198, 205-206.) Homeownership provides stability to communities across California, *id.* at 203-205, strengthening their schools and businesses and fostering a shared sense of purpose and engagement among residents.

Substandard mortgage-servicing practices endanger the public good of homeownership, however—especially during periods of widespread economic upheaval. During the Great Recession, 800,000 homes in California entered foreclosure. (Gabriel et al., *A Crisis of Missed Opportunities? Foreclosure Costs and Modification During the Great Recession* (2020) Fin. and Econ. Disc. Series 2020-053, Bd. of Governors of the Fed. Reserve System, at p. 1.⁴) Extensive federal and state investigations found that mortgage-servicing practices—especially those concerning the servicing of delinquent mortgages—contributed to the crisis, in some cases causing foreclosures that could have been averted, as well as other harms to homeowners. (See Fed. Reserve System, et al., *Interagency Review of Foreclosure Policies and Practices* (Apr. 2011), at pp. 5, 7-11;⁵ Complaint, *United States, et al. v. Bank of America Corp., et al.* (D.D.C. Mar. 14, 2012, No. 1:12-cv-00361-RMC) Dkt. 4-1, at ¶¶ 51, 58, 104, 107 (“Complaint”).) Servicers routinely failed to hire and train enough staff to handle requests for mortgage modification, lost borrowers’

⁴ Available at <<https://www.federalreserve.gov/econres/feds/a-crisis-of-missed-opportunities.htm>> (as of Sep. 15, 2020). This article finds that that the number of foreclosures likely would have been even higher, had the Legislature not taken steps in the middle of the crisis to slow the processing of non-judicial foreclosures. (See *id.* at pp. 1-4 [discussing Stats. 2008, ch. 69 [Sen. Bill. 1137] and Stats. 2009-2010, 2nd Ex. Sess. ch. 4 [Sen. Bill. 7].)

⁵ Available at <<https://www.occ.gov/news-issuances/news-releases/2011/nr-occ-2011-47a.pdf>> (as of Sep. 15, 2020).

modification and loss-aversion paperwork, gave borrowers false information and failed to respond to inquiries, and wrongfully rejected modification applications, among other misconduct. (Complaint, *supra*, at ¶¶ 51, 58, 104, 107.)⁶ Given the crucial role servicers play in either helping homeowners pursue alternatives to foreclosure, or hindering their access to such alternatives, the final *Biakanja* factor weighs heavily in favor of a duty of care.

B. A Duty of Care Exists Where One Party Must Rely on the Other's Specialized Expertise

California courts have also long recognized a duty of care in cases where one party has specialized expertise—typically where that party provides professional or specialized services in fields like law, accounting, and medicine. (See, e.g., *Burgess, supra*, 2 Cal.4th at p. 1075, 1081 [discussing physician's duty of care to patient]; *Borissoff v. Taylor & Faust* (2004) 33 Cal.4th 523, 530 [attorney's duty of care to client].) While these cases could be viewed as a subset of the “special relationship” category, the specialized-expertise cases often involve parties who contracted directly with each other, with the defendant's alleged negligence occurring in the course of performing that contract.

Specialized-expertise cases are a departure from the general rule that there can be no liability in tort for economic losses resulting from the performance of a contract between two parties. As discussed *infra*, at

⁶ In 2012, California joined 48 other states and the federal government to reach a \$50 billion settlement with the nation's five largest mortgage servicers. (See, e.g., Joint State-Federal Mortgage Servicing Settlements, *About the Settlement*, available at <<http://www.nationalmortgagesettlement.com/about.html>> [as of Sep. 15, 2020]; see also generally Consent Judgment, *United States, et al. v. Bank of America Corp., et al.* (D.D.C. Apr. 14, 2012, No. 1:12-cv-00361-RMC), Dkt. 14 [between plaintiffs and Wells Fargo].))

Section II, this rule is not absolute. In the specialized-services context, a duty of care is necessary because clients are unlikely to protect their interests adequately through contractual bargaining. “The imbalance of knowledge between the typical professional and client” means that “one side is not in a position to negotiate effectively with the other” when entering into the contract and allocating the risk of economic loss. (Rest.3d Torts Liability for Economic Harm. (Tent. Draft No. 1, Apr. 4, 2012) § 1 com. d(1).) Furthermore, the provider of specialized services contracts “to foster the plaintiff’s interests,” and the parties “are not contracting as adversarial bargainers or competitors.” (Dobbs, et al., *The Law of Torts* § 615 (2d ed. 2011 & 2020 supp.). Under those circumstances, “the right allocation of responsibility” for economic losses “between the parties”—to the professional, not to the client—“is clear enough as a matter of public policy.” (Rest.3d Torts Liability for Economic Harm (Tent. Draft No. 1, *supra*) § 1 com. d(1).)

It is highly relevant to this case that California courts recognize a duty of care in situations where one party provides specialized expertise to another. Mortgage servicers perform such a role for homeowners who are experiencing financial distress. When a homeowner has difficulty making payments, the servicer assesses whether the homeowner is eligible for any temporary or permanent modifications, such as principal-balance or interest-rate reductions, a modified repayment plan, or forbearance, that could allow the homeowner to stay in their house. (See Weiss & Jones, Cong. Research Serv., *An Overview of the Housing Finance System in the United States*, No. R42995 (2017), at pp. 4-5 & fn. 15.⁷) Homeowners experiencing financial difficulty are told by authoritative sources, including

⁷ Available at <<https://fas.org/sgp/crs/misc/R42995.pdf>> (as of Sep. 15, 2020.)

government agencies, to reach out to their servicers and to work with them toward identifying a solution on their behalf. (See, e.g., See Fed. Trade Com., *Making Payments to Your Mortgage Servicer* (Fed. Trade Com., *Making Payments*); Consumer Fin. Protection Bureau, *If I can't pay my mortgage loan, what are my options?*.⁸)

Homeowners are not well equipped to evaluate their own foreclosure-prevention options, and even if they were, they would need their servicer to approve and implement the plan. Eligibility for alternatives to foreclosure depends on several potentially complex factors, including the status of the homeowner's account, their debt-to-income and loan-to-value ratios, the applicability of any federal modification programs, and any restrictions imposed by the entity that holds the interest in the mortgage, among others. (See, e.g., Freddie Mac Single-Family, *Mortgage and Borrower Eligibility Requirements* [outlining eligibility considerations for modification under Home Affordable Modification Program, or HAMP].⁹)

The relationship between a homeowner and a mortgage servicer is therefore characterized by an imbalance of knowledge and by the parties' expectation that they will cooperate in a shared goal—the same factors that explain why providers of specialized services like doctors, lawyers, and accountants owe their clients a duty of reasonable care. (See, e.g., Rest.3d Torts Liability for Economic Harm. (Tent. Draft No. 1, *supra*) § 1 com. d(1); Dobbs, et al., *The Law of Torts*, *supra*, § 615.)

⁸ Available at <<https://www.consumer.ftc.gov/articles/0190-making-payments-your-mortgage-servicer>> and <<https://www.consumerfinance.gov/ask-cfpb/if-i-cant-pay-my-mortgage-loan-what-are-my-options-en-268/>> (as of Sep. 15, 2020.)

⁹ Available at <<https://sf.freddie.mac.com/general/mortgage-and-borrower-eligibility-requirements#:~:text=Borrowers%20may%20be%20eligible%20for,an%20affirmation%20of%20financial%20hardship>> (as of Sep. 15, 2020).

C. A Duty of Care Exists Where Private Parties' Negligence Significantly Affects Public Welfare

This Court has also recognized a duty of care in certain contexts that significantly affect public welfare. In *Barrera, supra*, 71 Cal.2d at pp. 668, for example, the Court held that an automobile insurer owes “a duty both to the [driver] and to the public to conduct a reasonable investigation” of the driver’s insurability upon issuing a policy. (*Id.* at p. 668.) It grounded this duty both in the “quasi-public” nature of the insurance business” and in the bargaining power differential between the insurance provider and the “comparatively weak” consumer. (*Id.* at p. 669.) Recognizing a duty of care was necessary to protect both the driver and the public, since neither could guard against the risk posed by insurers who might issue a policy to an unsafe driver, neglect to assess the driver’s insurability, and challenge the policy as void for lack of insurability only after the driver had been in an accident and a claim had been made. (*Id.* at pp. 669-670.) A contrary rule would “thwart[]” the State’s public policy of ensuring compensation for those injured by drivers through no fault of their own. (*Id.* at pp. 671-672.)

Like automobile insurance, mortgage servicing is a “quasi-public” industry, *Barrera, supra*, at pp. 667-668, that facilitates the socially beneficial activity of buying homes and living in them. Servicing arrangements allocate rights and responsibilities that may substantially affect non-parties and the broader community, particularly during periods of economic downturn, when large numbers of homeowners may be seeking alternatives to foreclosure. Servicers enjoy superior bargaining power as compared to homeowners, and are uniquely equipped to help struggling homeowners avoid foreclosure whenever viable alternatives exist. Conversely, they are also in a position to impose unnecessary burdens on struggling homeowners and the broader public if they fail to

devote the appropriate resources to modification and loss-aversion, as occurred during the last financial crisis.

II. NEITHER THE ECONOMIC-LOSS RULE, NOR THE EXISTENCE OF A CONTRACT, PRECLUDES A DUTY OF CARE

Wells Fargo points to the economic-loss doctrine as its primary argument against recognizing that mortgage servicers owe homeowners a duty in care in handling their modification requests. (See Ans. Br. at pp. 20-25.) As a general matter, the economic-loss rule is invoked to refer to two distinct but related circumstances in which economic losses are held not compensable through a negligence cause of action. Neither of these circumstances applies here.

First, the economic-loss rule sometimes refers to the principle that “recovery for stand-alone economic loss is frequently rejected” even though “economic loss that results from some other kind of injury may be recoverable” in negligence. (*Gas Leak Cases*, 7 Cal.5th at p. 400, quoting Dobbs, *An Introduction to Non-Statutory Economic Loss Claims* (2006) 48 Ariz. L.Rev. 713.) The primary concern driving the economic-loss rule in this context is that “[a]n award of damages for pure economic loss suffered by third parties raises the spectre of vast numbers of suits and limitless financial exposure.” (*Bily*, 3 Cal.4th at p. 400.) As this Court recently made clear, this “general rule” is not absolute, and the “primary exception to [it] is where the plaintiff and the defendant have a ‘special relationship’”—in other words, where the concern raised in *Bily* does not apply. (*Gas Leak Cases*, 7 Cal.5th at p. 400, citing *J’Aire*, *supra*, 24 Cal.3d at p. 807 and *Biakanja*, *supra*, 49 Cal.2d at pp. 650-651.) Thus, the Court in *Gas Leak Cases* expressly distinguished between economic-loss claims arising from industrial accidents—which may lead to “line-drawing problems and potentially overwhelming liability”—and claims arising “from a financial transaction meant to benefit the plaintiff (and which is

later botched by the defendant)”—which do not present the same concerns. (*Id.* at p. 403, italics added.)

Second, the economic-loss rule is also invoked to stand for the principle that where two parties have a contract, one may not sue the other in negligence for economic losses resulting from failure to perform as promised under the contract. This general rule is also subject to various limitations and “does not foreclose tort claims based on conduct outside the contract’s scope.” (Rest.3d Torts Liability for Economic Harm. (Tent. Draft No. 1, *supra*) § 3 com. c.; see also Dobbs, *The Law of Torts, supra*, § 613.)

A. None of the Factors Counseling Against a Duty of Care in Cases Involving Economic Loss Is Present Here

The first variant of the economic-loss rule guards against unfair or limitless liability, which is not present in cases involving mortgage-modification requests. *Bily, supra*, 3 Cal.4th at pp. 398, 400, counsels against recognizing a duty of care in cases of purely economic loss if the following circumstances apply: first, if the defendant “faces potential liability far out of proportion to its fault,” which may include where the defendant did not have “primary control” over the transaction or conduct at issue; second, if the plaintiff is a sophisticated party able to “control and adjust the relevant risks” of the transaction through contractual bargaining; and third, if placing the risk on the defendant would not effectively deter negligent conduct or would result in other undesirable outcomes. (See also *Beacon, supra*, 59 Cal.4th at pp. 579-581 [discussing *Bily* factors].)¹⁰

¹⁰ Likewise, the draft Restatement Third of Torts considers whether recognizing a duty in cases of solely economic loss would “expose the defendant to indeterminate or disproportionate liability,” and whether “parties in the plaintiff’s position can reasonably be expected to protect
(continued...)

Turning to the first factor, recognizing a duty of care would not subject a mortgage servicer to “liability far out of proportion to its fault,” *Bily, supra*, 3 Cal.4th at p. 398, when it fails to act with reasonable care in handling a mortgage modification request. The universe of potential plaintiffs is not comprised of strangers to the servicer, but is limited to individuals whose loans it services. Communicating with these homeowners and managing their accounts, on behalf of those entities that own the beneficial interest in the mortgage, is the core function servicers provide. (See *Weiss & Jones, supra*, at p. 4 & fn. 15.) Servicers thus have sole control over the manner in which they handle modification requests and the accuracy of their communications with homeowners about such requests, and this remains true even if third parties (such as trustees or holders of securitized interests in the property) have a say in determining whether and on what terms modification should be offered.¹¹

Second, homeowners are not able to “control and adjust the relevant risks,” *Bily, supra*, 3 Cal.4th at p. 398, posed by a mortgage servicer’s careless handling of modification requests. As discussed more fully in Section III.A *infra*, homeowners do not have the information needed to evaluate and account for mortgage-servicing risks at the time of taking out

(...continued)

themselves against the loss by contract.” (Rest.3d Torts Liability for Economic Harm. (Tent. Draft No. 1, *supra*) § 1 com. e.)

¹¹ See Thompson, Nat. Consumer Law Center, *Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior* (2009), at pp. 4, 6-7, available at <<https://www.nclc.org/images/pdf/pr-reports/report-servicers-modify.pdf>> (as of Sep. 15, 2020) (discussing Pooling and Servicing Agreements (“PSAs”), which include provisions about the servicing of securitized loans); Levitin & Twomey, *Mortgage Servicing* (2011) 28 Yale J. Reg. 1, 33-37 (same, and noting that most PSAs permit at least some types of loan modifications); see also *infra*, at Section III.A.2 (discussing PSAs).

a loan. Furthermore, homeowners today usually do not contract directly with their mortgage servicer; rather, they contract with their mortgage lender, which often then transfers the servicing rights to a third party. (See Fed. Trade Com., *Making Payments*, *supra* [explaining that homeowners may expect their lender to keep and service their mortgage loan, but “[t]hat’s often not the case” because “[i]n today’s market, loans and the rights to service them often are bought and sold”]; see also Weiss & Jones, *supra*, at p. 4 & fn. 15.) The difference between the lending role and the servicing role is significant, because it means that although homeowners can select a mortgage lender and bargain over the terms of their loan—just as Plaintiff presumably did—homeowners usually have no corresponding opportunity to select a servicer and bargain over how the servicing functions will be handled.¹²

Finally, Wells Fargo fails to make a persuasive argument that recognizing a duty here would be ineffectual or counter-productive. (See *Bily*, 3 Cal.4th at pp. 404-405.) Although Wells Fargo argues that additional tort liability could “make mortgages more expensive” or cause servicers to stop considering modification altogether, Ans. Br. at p. 44, the Court rejected similar arguments in *Connor*, *supra*, 69 Cal.2d at pp. 867-868. There, it observed that “there is no enduring social utility in fostering the construction of seriously defective homes,” and that imposing a duty

¹² Although here, Wells Fargo continued to service Plaintiff’s loan at the time of the alleged misconduct, this would not be the case for many homeowners, especially for their first-lien loans. And even in this case, Wells Fargo transferred its servicing rights to Plaintiff’s loan after he applied for modification, such that it was not Wells Fargo but an entirely separate entity that foreclosed on Plaintiff’s home. (See Ans. Br. at p. 17.) And in any event, even where the lender retains servicing rights, homeowners do not typically have an opportunity to bargain for an optimal level of service from the lender in its capacity as mortgage servicer. (See *infra*, at Section III.A.)

would not negatively affect the market for construction financing “if reliable construction is the norm.” (*Ibid.*) The same can be said for mortgage-servicing practices: there is no social utility in fostering incompetent loan servicing that results in needless foreclosures. Moreover, servicers are unlikely to stop offering modifications altogether. When determining whether modification is appropriate, servicers are often required to act in the best interest of the parties that hold the beneficial interest in the mortgage—not homeowners, but entities such as banks or investment trusts. (See, e.g., Weiss & Jones, *supra*, at p. 7 & fn. 23; see also *supra*, at fn. 11.) Servicers that cut costs by refusing to consider modification requests therefore risk liability or the loss of business if the practice is discovered.

To be clear, not all struggling homeowners are eligible for mortgage modification, and not all foreclosures can be avoided. Holding that mortgage servicers owe homeowners a duty of reasonable care—including to timely respond to modification requests; handle homeowners’ paperwork in a responsible and organized manner; and communicate clearly, promptly, and accurately with homeowners—would *not* require servicers to grant modification requests, but it would remove unnecessary impediments to modification, as well as minimize the frustration, uncertainty, and costs homeowners bear when they have no choice but to deal with an unresponsive or sloppy servicer. It would also make it riskier for servicers to save money by under-investing in modification and loss-mitigation operations, and level the playing field between those servicers that invest in adequate resources to help homeowners and those that do not.

B. The Existence of a Contract, or Contractual Privity, Does Not Preclude a Duty of Care

Turning to the second understanding of the economic-loss rule, Wells Fargo argues that the many cases pointing to a duty of care are irrelevant here because “[p]arties to a contract are generally barred from pursuing a tort action for economic loss related to the subject matter of the contract.” (Ans. Br. at p. 20.) This contention is difficult to square with Wells Fargo’s later assertion that a tort action for negligent misrepresentation is available and forecloses the need for a negligence action. (*Id.* at pp. 46-47.) But even as to the tort of negligence, Wells Fargo is incorrect: while *Biakanja*’s factors have been applied to recognize a duty of care to avoid economic injury “even though [the parties] were not in privity of contract,” *supra*, 49 Cal.2d at p. 648, this Court has never suggested that there can be no tort-based duty of care as between parties in contractual relationships. To delineate contract law and tort law in such an “overly rigid” manner, *J’Aire*, *supra*, 24 Cal.3d at p. 805, would be inconsistent with this Court’s policy-oriented approach to determining duty. (See *Beacon*, *supra*, 59 Cal.4th at p. 573.)

To start, Wells Fargo acknowledges that its contract with Plaintiff does not address how it will handle, and communicate with borrowers about, mortgage modification requests. (Ans. Br. at pp. 24-25; see also Reply Br. at pp. 21-22.) There can be little debate that the mere existence of contractual privity does not bar negligence claims arising from conduct that was not addressed in the parties’ agreement. *Connor v. Great Western Savings and Loan Association* (1968) 69 Cal.2d 850, for example, involved a defendant bank that had issued mortgage loans to the plaintiff homeowners, and thus was in privity of contract with them. The bank also had lent money to the developer of the plaintiffs’ homes and took other steps to promote the construction and sale of the homes. (*Id.* at pp. 859-

862.) When the homes turned out to be structurally unsound, the plaintiffs sued the bank for negligence, not in its capacity as a mortgage lender, but for its role in promoting and financing the construction project. As the Court concluded, “the fact that [the defendant bank] was not in privity of contract with any of the plaintiffs *except as a lender* does not absolve it of liability for its own negligence in creating an unreasonable risk of harm to them.” (*Id.* at p. 865, italics added.) Applying the *Biakanja* factors, the Court recognized a duty of care. (*Id.* at pp. 866-868.)

Moreover, cases applying *Biakanja* recognize that an agreement between parties may serve as the basis for such a duty of care. (See *J’Aire*, *supra*, 24 Cal.3d at p. 803 [“A duty of care may arise through statute or by contract [or] be premised upon the general character of the activity in which the defendant engaged, [or] the relationship between the parties”]; see also *Beacon*, *supra*, 59 Cal.4th at p. 574 [noting that “liability for the supply of goods and services historically required privity of contract between” the parties]; *Barrera*, *supra*, 71 Cal.2d at pp. 668-669, 673-674 [both existence of insurance contract, and implications of contract for public welfare, warrant duty of care].) Even when a negligence claim arises out of conduct contemplated by the parties’ contract, a duty of care may still exist independent of the contract, as the specialized-expertise cases and *Barrera* illustrate. (See *Burgess*, *supra*, 2 Cal.4th at pp. 1075; *Barrera*, *supra*, 71 Cal.2d 659 at p. 668-670; see also *Erlich v. Menezes* (1999) 21 Cal.4th 543, 552, quoting *Freeman & Mills, Inc. v. Belcher Oil Co.* (1995) 11 Cal.4th 85, 107 (conc. opn. of Mosk, J.) [“Courts will generally enforce the breach of a contractual promise through contract law, except when the actions that constitute the breach violate a social policy that merits the imposition of tort remedies.”].)

Thus, the existence of a contract between the servicer and homeowner—when such a contract exists—should not prevent the Court

from recognizing the servicer's duty to act with reasonable care in handling a modification application from the homeowner.

III. NEGLIGENCE LAW IS NECESSARY TO PROTECT HOMEOWNERS AGAINST SERVICERS' MISHANDLING OF MORTGAGE MODIFICATION REQUESTS

In addition to arguing that the parties' contractual relationship bars this negligence action, Wells Fargo further claims that recognizing a duty of care is unnecessary because homeowners can turn to contract law, other tort causes of action, and statutory law to remedy or prevent substandard mortgage servicing. (See Ans. Br. 39-54.) None of these avenues is a substitute for negligence, however.

A. Homeowners Cannot Protect Their Interests Through Contract Law

As a practical matter, homeowners cannot use contract law to adequately protect themselves against substandard mortgage servicing practices. They cannot bargain for an optimal level of care in their servicers' modification operations at the time of taking out a mortgage loan, nor can they turn to contract law to supply a remedy if their servicer fails to act with reasonable care when they submit a modification request. In fact, many homeowners never enter into any contract at all with their mortgage servicer.

1. Homeowners Are Unable to Evaluate Servicing Risk Effectively and Account for Risk When Obtaining Mortgage Loans

As an initial matter, homeowners are not well situated to assess risk associated with the handling of a modification request. Research shows that people "systematically underestimate most risks, including low-probability risks of economic losses." (Eisenberg, *The Limits of Cognition and the Limits of Contract* (1995) 47 Stan. L.Rev. 211, 224.) Homeowners in the process of negotiating a new mortgage loan are unlikely to account

for the possibility that they may at some point have trouble paying their mortgage and need to seek help from their servicers to avoid foreclosure.

Moreover, even if a borrower were aware of the risk of delinquency, it is unclear how the borrower could use that information to their benefit. Servicers' operations are wholly opaque to homeowners, all the way from tangible details like the number of agents available to assist with modification requests, to the quality of those agents' training, to the complex and varying web of financial incentives that underlie company policies and procedures. The typical borrower has no means to know, for example, whether her servicer is paid a flat fee for all servicing activity or whether it receives additional compensation for completing modifications—considerations that may drive servicers to expend more or less resources on loan-modification operations. (See McCoy, *Barriers to Foreclosure Preventing During the Financial Crisis* (2013) 55 Ariz. L.Rev. 723, 757 [comparing compensation schemes for servicers of loans backed by Fannie Mae and Freddie Mac with those of loans serviced pursuant to private-label securitization agreements].)

For the average borrower, just obtaining a mortgage loan is a complex transaction—let alone the servicing dimension. “The imperfectly rational borrower deals with complexity by ignoring it” and “simplif[ying] his decision problem.” (Bar-Gill, *The Law, Economics, and Psychology of Subprime Mortgage Contracts* (2009) 94 Cornell L.Rev. 1073, 1122; see also Eisenberg, *supra*, at p. 244 [similar argument about form contracts].) Thus, the typical borrower will respond to the complexity and uncertainty of mortgage-servicing risks by focusing on the most concrete, immediate terms in their mortgage agreement, such as the down-payment amount and interest rate, not on terms that would become relevant only in the event that the borrower will one day seek to modify the loan.

2. Homeowners Typically Do Not Contract Directly With Their Mortgage Servicers

A second, and perhaps more fundamental, barrier prevents homeowners from negotiating with mortgage servicers to protect their interests through contract terms. Homeowners typically do not know, at the time of taking out a mortgage loan, who will ultimately own the mortgage or who their servicer will be. Both mortgage-servicing rights, and the underlying beneficial interests in a mortgage, are frequently bought and sold. A brief overview of the “secondary market” for mortgages and mortgage-servicing rights, Weiss & Jones, *supra*, at pp. 1, 7, makes clear why homeowners are unable to select their servicers or negotiate for favorable servicing terms.

After a mortgage loan is originated, the lender may keep it or transfer it to another entity. If the lender keeps the mortgage, it may service the mortgage itself, or it may transfer servicing rights to a third party. (See, e.g., Weiss & Jones, *supra*, at p. 4 & fn. 15; see also Shoemaker, *Trends in Mortgage Origination and Servicing: Nonbanks in the Post-Crisis Period* (2019) 13:4 FDIC Q. 51, 57.¹³) Mortgage origination and servicing business models vary, as some lenders “originate mortgages and retain the servicing,” others “originate mortgages but do not retain the servicing,” and still others “purchase MSRs [mortgage-servicing rights] and outsource the servicing to another firm, called a subservicer.” (Shoemaker, *supra*, at p. 57.) The market for mortgage-servicing rights is enormous; for example, “[i]n 2013 alone, nonbank servicers purchased from banks in bulk sales the servicing rights to more than \$500 billion in mortgages.” (*Id.* at p. 56.)

¹³ Available at <<https://www.fdic.gov/bank/analytical/quarterly/2019-vol13-4/fdic-v13n4-3q2019-article3.pdf>> (as of Sep. 15, 2020).

In many cases—and especially for first-lien residential mortgages used for the initial purchase of a home—the lender does not keep the mortgage it originated. Rather, the lender sells the mortgage, or the beneficial interest in it, to another entity, which will then choose a servicer. The majority of first-lien residential mortgage loans are pooled into mortgage-backed securities, and the entities involved in the securitization process select a servicer for all of the mortgages in the investment pool. (See Urban Inst., *Housing Finance at a Glance: A Monthly Chartbook* (April 2020), at p. 8 [noting that 64% percent of the volume, by dollar amount, of first-lien mortgages issued in 2019 was securitized].¹⁴) Second-lien mortgages, like the loan at issue here, may also be also securitized, though the practice is far less common than it is for first-lien loans. (See Levitin & Twomey, *Mortgage Servicing* (2011) 28 Yale J. Reg. 1, 12 & fn. 29 [discussing rates of securitization before the Great Recession].)¹⁵

When a mortgage is securitized, a document known as the Pooling and Servicing Agreement (or “PSA”) names one or more servicers for the pool of mortgages and sets forth the servicers’ rights and obligations vis-à-vis the investment trust. (See, e.g., Weiss & Jones, *supra*, at p. 7 & fn. 23; Thompson, Nat. Consumer Law Center, *Why Servicers Foreclose When They Should Modify and Other Puzzles of Servicer Behavior* (2009), at p.

¹⁴ Available at <<https://www.urban.org/research/publication/housing-finance-glance-monthly-chartbook-april-2020>> (as of Sep. 15, 2020).

¹⁵ New securitization of second-lien loans effectively ceased following the Great Recession, but investment firms have recently shown renewed interest in this area. (See Eisen, *Mortgage Bond That Vanished During Financial Crisis Is Back*, Wall Street J. (Jun. 24, 2019) [discussing recent issuance of mortgage bond backed by pooled home-equity lines of credit, or HELOCs].)

4.¹⁶) Notably, homeowners *are not parties* to this agreement. (Thompson, *supra*, at p. 4.) Similarly, in the case of a loan that has not been securitized, its holder may transfer the beneficial interest, the servicing rights, or both, to a new entity without the homeowner’s knowledge or input—as happened with Plaintiff’s loan before the foreclosure sale of his home. (See Ans. Br. at p. 17; Op. Br. at pp. 23-24.)

Homeowners have absolutely no say whether and to whom the servicing rights to their mortgage are transferred; “free assignability is a standard term” in mortgage documentation. (Levitin & Twomey, *supra*, at p. 83.) The secondary market for mortgages and mortgage-servicing rights explains why agreements between borrowers and lenders typically do not contain any concrete terms relating to servicing: to include such terms would impede the mortgages’ transferability.

Although in this case, Wells Fargo served as both lender and servicer of Plaintiff’s loan, it makes no sense for the duty of care to turn on whether the servicer happens to have also been the lender. Homeowners whose loans are serviced by their lender do not have a greater capacity to control the servicers’ behavior than homeowners whose loans are serviced by a non-lender. In either case, borrowers “cannot price adequately for servicing risk when they take out a mortgage loan” because they do not know the answers to questions fundamental to the contractual bargaining process—including who will own the beneficial interest in their mortgage; whether it will be securitized; who will service the mortgage, or even select the servicer; and what the terms of any future servicing agreement will be. (Levitin & Twomey, *supra*, p. 7.) It therefore makes no sense to conclude, as the Court of Appeal did, that contract law “protects the bargain the

¹⁶ Available at <<https://www.nclc.org/images/pdf/pr-reports/report-servicers-modify.pdf>> (as of Sep. 15, 2020).

parties have made” and “allows parties to make dependable allocations of financial risk without fear that tort law will be used to undo them later.” (*Sheen v. Wells Fargo Bank* (2019) 38 Cal.App.5th 346, 356 (*Sheen*), citing Rest.3d Torts Liability for Economic Harm (Tent. Draft No. 1, *supra*), § 3, com. b.) Making “dependable allocations of financial risk,” *Sheen, supra*, at p. 356, is exactly what homeowners are unable to do, given the structure of contemporary mortgage-servicing arrangements.

B. Other Common-Law Causes of Action Do Not Adequately Protect Homeowners Against Substandard Servicing

Wells Fargo acknowledges that a homeowner may sue their mortgage servicer for promissory estoppel or negligent misrepresentation—but to be answerable for negligence, it argues, is a bridge too far. (Ans. Br. at pp. 39-40, 46-52.) This position asks the Court to disregard the various ways that a loan servicer could harm a borrower without making express promises or false statements that would be actionable under these doctrines.

A cause of action for promissory estoppel exists when a party makes a promise that it “should reasonably expect to induce action or forbearance on the part of the promisee or a third person and which does induce such action or forbearance.” (*Kajima/Ray Wilson v. Los Angeles County Metropolitan Transp. Authority* (2000) 23 Cal.4th 305, 310.) Similarly, a cause of action for negligent misrepresentation arises when a party makes a false statement upon which it intends another party to rely, and that party actually and justifiably relies on the statement. (*Home Budget Loans, Inc. v. Jacoby & Meyers Law Offices* (1989) 207 Cal.App.3d 1277, 1285.)

In contrast to these causes of action, only negligence can provide a remedy when a homeowner is harmed not by particular, concrete false representations or promises, but instead by a pattern of unresponsive, confusing, or contradictory conduct in response to a request for a loan

modification. This is precisely the sort of conduct federal and state officials and agencies uncovered during their investigations of mortgage-servicing practices during the Great Recession. (See, e.g., Complaint, *United States, et al. v. Bank of America Corp., et al.* (D.D.C. Mar. 14, 2012, No. 1:12-cv-00361-RMC) Dkt. 4-1, at ¶¶ 51, 58 [alleging that servicers not only provided false and misleading information to borrowers, but also “fail[ed] to timely and accurately apply [borrowers’] payments”; “fail[ed] to properly oversee third party vendors involved in servicing activities”; “fail[ed] to maintain appropriate staffing, training, and quality control programs”; “fail[ed] to gather or los[t] loan modification application” documents; “fail[ed] to establish adequate processes for loan modifications”; and “miscalculate[ed] borrowers’ eligibility for loan modification programs,” among other misconduct].) Conditions are ripe today for a similar crisis, as many homeowners who have temporarily stopped making their monthly mortgage payments under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) will need longer-term assistance to keep their homes after the forbearance period ends. (See Pub.L. No. 116-136 (Mar. 27, 2020) 134 Stat. 281, 490-491 [allowing homeowners with federally-backed mortgages up to 360 days of forbearance]; see also Freddie Mac, *What Happens When COVID Forbearance Ends?* (Jun. 29, 2020).¹⁷)

In contrast to negligence, promissory estoppel and negligent misrepresentation do little to promote incentives for responsible servicing conduct industry-wide. A clear statement by this Court that loan servicers

¹⁷ Available at <http://www.freddiemac.com/blog/homeownership/20200629_understanding_covid-19_forbearance_part_II.page> (as of Sep. 15, 2020).

owe a duty of care will promote incentives for responsible conduct and minimize unnecessary foreclosures.

C. The Homeowner Bill of Rights Does Not Fully Protect Homeowners Against Substandard Servicing

Finally, Wells Fargo points to California's Homeowner Bill of Rights ("HBOR") and federal regulations with similar provisions to HBOR's, to argue that a duty of care is unnecessary and could interfere with statutory and regulatory regimes. (See Ans. Br. at pp. 41-43.) While HBOR is certainly relevant to the Court's analysis, it does not undermine, but rather supports, the propriety of recognizing a duty of care.

In fact, when legislation prohibits or otherwise governs conduct similar to that underlying a negligence claim, the Court has considered that legislation as counseling in favor of a duty of care. For example, in *J'Aire, supra*, 24 Cal.3d at p. 805 & fn. 2, the Court pointed to a statute authorizing disciplinary action against construction contractor licensees as evidence that "public policy supports finding a duty of care" owed by contractors to complete construction projects in a reasonably timely manner (citing Bus. & Prof. Code § 7719). Similarly, in *Barrera, supra*, 71 Cal.2d at pp. 670-673, the Court assessed public-policy rationales underlying the Financial Responsibility Law in concluding that an insurer owes a duty of care to policy holders and to the public (citing Veh. Code, § 16000 et seq.). (See also *Jolley, supra*, 213 Cal.App.4th at p. 905 [finding that HBOR "sets forth policy considerations that should affect the assessment whether a duty of care was owed" to plaintiff borrower].)

HBOR does not require servicers to act with reasonable care when handling mortgage modifications or performing servicing functions generally. Rather, it imposes particular obligations on servicers and prescribes only limited remedies if these obligations are not met. (See, e.g., Civ. Code, §§ 2923.55, subd. (b)(2) [requiring servicer to contact borrower

and “explore options for the borrower to avoid foreclosure” before issuing a notice of default]; 2924.10, subd. (a) [requiring servicer to confirm receipt of modification paperwork and provide specified information about modification process]; 2923.6, subd. (c) [prohibiting a servicer from pursuing foreclosure while modification request remains pending].¹⁸

Furthermore, the law does not apply to all mortgage loans, or even to all servicers. HBOR’s key provisions apply only to first-lien residential mortgage loans and only to servicers who foreclose on more than 175 properties annually. (See, e.g., *id.* §§ 2923.55, subds. (g)–(h); 2924.10, subds. (c)–(d); 2923.6, subd. (i)–(j); 2924.15, subd. (a); 2924.18, subd. (b).) And although HBOR includes a private right of action, it does not permit the full range of remedies available at common law. Before foreclosure, a plaintiff suing under HBOR can seek only injunctive relief to prevent specified “material violation[s]” of the law, and no monetary damages are contemplated, even in the likely event that the homeowner has incurred economic losses due to the servicer’s misinformation or delay. (*Id.* § 2924.12, subds. (a)–(b); see also *Shupe v. Nationstar Mortgage LLC* (E.D. Cal. 2017) 231 F.Supp.3d 597, 603 [denying requests for injunctive and monetary relief under HBOR where foreclosure sale had not been recorded and was not pending].)

While Wells Fargo argues that the “limited scope” of HBOR “was intentional,” Ans. Br. at p. 42, nothing in the statute, or its legislative history, endorses leaving homeowners without a remedy if their servicer harms them in ways that are not remediable under the statute, or if their loan or servicer is not covered by the statute. To the contrary, HBOR’s

¹⁸ HBOR consists of Civil Code sections 2920.5, 2923.4 through 2923.7, 2924, and 2924.9 through 2924.19.

narrow scope is paired with a savings clause set forth in its provision governing injunctive relief and damages. The savings clause reads:

The rights, remedies, and procedures provided by this section are in addition to and independent of any other rights, remedies, or procedures under any other law. Nothing in this section shall be construed to alter, limit, or negate any other rights, remedies, or procedures provided by law.

(Civ. Code, § 2924.12, subd. (g).)

By including a savings clause in HBOR, the Legislature signaled that it expected background common-law principles, including when servicers owe a tort-law duty of care, to continue to operate, even as applied to conduct that HBOR expressly addresses and for which it provides a remedy. It is illogical, then, to interpret HBOR as counseling against the application of tort law to junior-lien mortgage loans, like Plaintiff's, that are not even within HBOR's ambit.¹⁹ Recognizing that servicers owe homeowners a duty to act with reasonable care complements the policies embodied in HBOR and is consistent with decades of precedent that should guide the Court's analysis.

CONCLUSION

For the reasons addressed above, the Attorney General urges the Court to hold that mortgage servicers have a duty to exercise reasonable care when handling a distressed homeowner's application for a loan modification.

¹⁹ HBOR's legislative history does not reflect any intent to limit negligence liability for either first- or junior-lien loans, and only briefly notes that the decision not to extend HBOR to junior loans "is consistent with the national mortgage settlement" and was made "[i]n response to concerns raised by industry stakeholders"—in other words, as a legislative compromise. (Sen. Rules Com., Off. of Sen. Floor Analyses, Conf. Report on Assem. Bill 278 [Sen. Bill 900], at p. 26.)

Dated: September 18, 2020

Respectfully submitted,

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DECLARATION OF ELECTRONIC SERVICE

Case Name: KWANG K. SHEEN v. WELLS FARGO BANK, N.A, et al.

No.: S258019

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On September 18, 2020, I electronically served the attached **BRIEF OF THE CALIFORNIA ATTORNEY GENERAL AS AMICUS CURIAE IN SUPPORT OF PLAINTIFF** by transmitting a true copy via this Court's TrueFiling system addressed, or for recipients not registered with TrueFiling, placed a true copy thereof in a sealed envelope with postage fully prepaid in the United States Mail at Los Angeles, California, addressed as follows:

PLEASE SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 18, 2020, at Los Angeles, California.

Carol Chow

Declarant

/s/Carol Chow

Signature

CERTIFICATE OF COMPLIANCE

I certify that the attached Amicus Curiae In Support Of Plaintiff uses a 13 point Times New Roman font and contains 8,558 words.

Dated: September 18, 2020 XAVIER BECERRA
Attorney General of California.

/s/ Amy Chmielewski
AMY CHMIELEWSKI
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No.: S258019

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 18 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FRANK DEVILLE; DEE ANETIONETTE
DEVILLE,

Plaintiffs-Appellants,

v.

SPECIALIZED LOAN SERVICING LLC,
Individually and as Servicing agent for Towd
Point Mortgage trust 2020-1; et al.,

Defendants-Appellees.

No. 20-56328

D.C. No. 2:20-cv-05576-JGB-E
Central District of California,
Los Angeles

ORDER

Before: SILVERMAN, CLIFTON, and HURWITZ, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See Fed. R. App. P. 35.*

Plaintiffs' petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 57) are denied.

No further filings will be entertained in this closed case.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 26 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

172a

FRANK DEVILLE and DEE
ANETIONETTE DEVILLE,

Plaintiffs - Appellants,

v.

SPECIALIZED LOAN SERVICING
LLC, Individually and as Servicing
agent for Towd Point Mortgage trust
2020-1; et al.,

Defendants - Appellees.

No. 20-56328

D.C. No. 2:20-cv-05576-JGB-E
U.S. District Court for Central
California, Los Angeles

MANDATE

The judgment of this Court, entered January 27, 2022, takes effect this date.

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

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Howard Hom
Deputy Clerk
Ninth Circuit Rule 27-7

FILED

UNITED STATES COURT OF APPEALS

FEB 17 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FRANK DEVILLE; DEE ANETIONETTE
DEVILLE,

No. 20-56030

Plaintiffs-Appellants,

D.C. No.

2:20-cv-05576-JGB-E

v.

Central District of California,

Los Angeles

SPECIALIZED LOAN SERVICING LLC,
Individually and as Servicing agent for
Towd Point Mortgage trust 2020-1; et al.,

ORDER

Defendants-Appellees.

Before: W. FLETCHER, BERZON, and BYBEE, Circuit Judges.

The motion for reconsideration en banc (Docket Entry No. 15) is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

All other pending motions are denied as moot.

Appellants' appeal from the final order entered in the district court on November 20, 2020 is proceeding in this court as appeal No. 20-56328.

No further filings will be entertained in this closed case.

1. Movants need relief to avoid irreparable harm, and will face prejudice if this petition for **Rehearing/En Banc under circuit rule 35 & 40** is denied.
2. Appellant is without fault in creating the problem at issue.
3. The Appeal was denied on 1/27/2022
4. This petition for **Rehearing/En Banc** was filed on 1/8/2022 timely.
5. The Appeals court overlooked issues when making the decision in the case.
6. The panel decision conflicts with a decision of the United States Supreme Court or of the court to which the petition is addressed *Cohen v. Beneficial Industrial Loan Corp.*
7. The courts of appeals have jurisdiction under 28 U.S.C. § 1291 of appeals "from all final decisions of the district courts." Under *Cohen v. Beneficial Industrial Loan Corp.*
- 8.
9. The Court should stay the case until a decision has been made for this rehearing/en banc petition.
10. There are multiple parties in the case and movants are pro per litigants and without proper counsel. Movants would be harmed and federally protected rights would be violated, like the First Amendment rights and the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment.

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
FOR THE NINTH CIRCUIT

| | | |
|--|---|--------------------------|
| Frank Deville |) | No. 20-56328 |
| Dee Deville |) | [Civil Action No. |
| Plaintiffs-appellants, |) | 02:20-cv-05576 C.D Cal.] |
| |) | |
| v. |) | |
| |) | |
| Specialized Loan Servicing LLC, et al.,) |) | |
| Defendants-appellee, |) | |

**DECLARATION OF FRANK DEVILLE AND DEE DEVILLE
IN SUPPORT OF PETITION FOR PANEL REHEARING/EN BANC
COMBINED UNDER CIRCUIT RULE**

35,40

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**Declaration in support of PETITION for panel Rehearing/En Banc
under circuit rule 35,40**

Declaration in support of motion: We swear under penalty of perjury that we are pro se litigants and are without proper counsel. We certify to the Court that all such representations are true.

11. A party can petition or a judge can make a sua sponte call for a rehearing en banc before the full court G.O. 5.8(a)-(b).
12. The proceeding involves one or more questions of exceptional importance.
13. Appellants Frank Deville and Dee Deville Statement in support of rehearing or rehearing en banc petition for rehearing and rehearing en banc of the opinion (Docket entry No. 56-2) of January 27, 2022, entering judgment in favor of the Appellees.
14. A panel rehearing is appropriate when a material point of law was overlooked in the decision. Fed. R. App. P. 40(a)(2).
15. An en banc rehearing by this Circuit is proper when (1) the panel decision conflicts with a decision of the Supreme Court or a decision of this Circuit so that consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions or (2) the case involves a question of exceptional importance because it conflicts with an opinion of another court of appeals and substantially affects a rule of national application in which there is an overriding need for national uniformity. Fed. R. App. P. 35(b); 9th Cir. R. 35-1.
16. In appellants/counsel judgment one or more of the situations exist for the purpose for the panel rehearing/rehearing en banc.
17. Material points of facts or law were overlooked in the decision.
18. Appellants believe that a consideration by the full court is necessary to secure or maintain uniformity of the courts decision.

19. Appellants swear under penalty of perjury under United States laws that our answers are true and correct and attached documents are true and correct. 28

U.S.C. § 1746; 18 U.S.C. § 1621.

/s/ Frank Deville
Signature

02/08/2022
Date

/s/ Dee Deville
Signature

02/08/2022
Date

[Return to Service List Page](#)Service List for Case: [20-56328](#) Frank Deville et al v. Specialized Loan Servicing LLC et al

Current Associated Cases: none

CAUTION: If the word *Active* is in the **ECF Filing Status** column, then your electronic filing will constitute service to the party. If *Not Registered*, *Exempt*, *Exemption Expired*, *Pending*, *Rejected*, or *Suspended* appears in the **ECF Filing Status** column (or it is blank), then you must serve this party by US Mail.

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United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 02/08/2022 at 10:15:34 PM PST and filed on 02/08/2022

Case Name: Frank Deville, et al v. Specialized Loan Servicing LLC, et al
Case Number: 20-56328
Document(s): Document(s)

Docket Text:

Filed (ECF) Appellant Mrs. Dee Anetionette Deville petition for panel rehearing and petition for rehearing en banc (from 01/27/2022 memorandum). Date of service: 02/08/2022. [12364707] [20-56328] (Deville, Dee)

Notice will be electronically mailed to:

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Mr. Adam N Barasch, Attorney: anb@severson.com (daily summary)

The following document(s) are associated with this transaction:

Document Description: Main Document

Original Filename: en banc 2 8 2022---.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1106763461 [Date=02/08/2022] [FileNumber=12364707-0]
[6d36e3d8cf101ab754f8ed7f077b1f7acabff41692faad67222cbd69e95e73f5b96aa73f2fa9a215301f2920f1a51cb4ced019dfd726f2a9a9d0d5fd7f43f6ab]]

Document Description: Additional Document

Original Filename: declaration of appellants for panel rehearing and or rehearing en banc1205.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1106763461 [Date=02/08/2022] [FileNumber=12364707-1]
[1b83a60b63e95a27d45091990611e987234424bad9072d3dfb0d337177be8c5dcee957fbc360410fc0ab80daca2dc96c71ce4403f9eda5c511d38ad92655d5]]

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 20-56328
Nature of Suit: 3371 Truth in Lending
 Frank Deville, et al v. Specialized Loan Servicing LLC, et al
Appeal From: U.S. District Court for Central California, Los Angeles
Fee Status: Paid

Docketed: 12/16/2020
Termed: 01/27/2022

Case Type Information:

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

Originating Court Information:

District: 0973-2 : 2:20-cv-05576-JGB-E
Trial Judge: Jesus G. Bernal, District Judge
Date Filed: 06/23/2020

Date Order/Judgment:

11/20/2020

Date Order/Judgment EOD:

11/20/2020

Date NOA Filed:

12/15/2020

Date Rec'd COA:

12/15/2020

Prior Cases:

20-56030 **Date Filed:** 10/06/2020 **Date Disposed:** 10/15/2020 **Disposition:** Jurisdictional Defects - Judge Order

Current Cases:

None

FRANK DEVILLE
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DEE ANETIONETTE DEVILLE
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 P.O. Box 2042
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v.

SPECIALIZED LOAN SERVICING LLC, Individually and as
 Servicing agent for Towd Point Mortgage trust 2020-1
 Defendant - Appellee,

Andrew Jonathan Mase
 Direct: 949-263-1800
 Email: amase@theyanfirm.com
 [COR NTC Retained]
 The Ryan Firm
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 The Ryan Firm
 2603 Main Street

BANK OF AMERICA, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7
Defendant - Appellee,

Suite 1225
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WELLS FARGO BANK, N.A.
Defendant - Appellee,

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San Francisco, CA 94105

U.S. BANK, N.A., as indenture Trustee and as servicing agent for
Towd Point Master Funding Trust 2019-PM7
Defendant - Appellee.

Andrew Jonathan Mase
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Timothy M. Ryan, Esquire, Attorney
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(see above)

Michael W. Stoltzman, Jr.
Direct: 949-263-1800
[COR NTC Retained]
(see above)

DOES, All Persons Unknown claiming any legal or equitable right,
title, estate, lien or interest in the property described in the
complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title
thereto; 1-20, inclusive
Defendant - Appellee.

TOWD POINT MORTGAGE TRUST 2020-1
Defendant - Appellee.

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Direct: 949-263-1800
[COR NTC Retained]
(see above)

Michael W. Stoltzman, Jr.
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TOWD POINT MASTER FUNDING TRUST 2019-PM7
Defendant - Appellee.

Andrew Jonathan Mase
Direct: 949-263-1800
[COR NTC Retained]
(see above)

Michael W. Stoltzman, Jr.
Direct: 949-263-1800
[COR NTC Retained]
(see above)

FRANK DEVILLE; DEE ANETIONETTE DEVILLE,

Plaintiffs - Appellants,

v.

SPECIALIZED LOAN SERVICING LLC, Individually and as Servicing agent for Towd Point Mortgage trust 2020-1; BANK OF AMERICA, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7; WELLS FARGO BANK, N.A.; U.S. BANK, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7; DOES, All Persons Unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the complaint adverse to plaintiffs' title; or any cloud on plaintiffs' title thereto; 1-20, inclusive; TOWD POINT MORTGAGE TRUST 2020-1; TOWD POINT MASTER FUNDING TRUST 2019-PM7,

Defendants - Appellees.

- 12/16/2020 1
60 pg, 952.7 KB
DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL AND PRO SE APPELLANTS. SEND MQ: No. The schedule is set as follows: Appellants Dee Anetionette Deville and Frank Deville opening brief due 02/16/2021. Appellees U.S. Bank, N.A., et al.. answering brief due 03/15/2021. Appellant's optional reply brief is due 21 days after service of the answering brief. [11929601] (JPD) [Entered: 12/16/2020 10:31 AM]
- 12/18/2020 2
17 pg, 3.59 MB
Received copy of amended notice of appeal from district court. [11933178] (RR) [Entered: 12/18/2020 02:13 PM]
- 12/19/2020 3
63 pg, 13.63 MB
Filed (ECF) Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Mediation Questionnaire. Date of service: 12/19/2020. [11933771] [20-56328] (Deville, Dee) [Entered: 12/19/2020 04:34 PM]
- 12/19/2020 4
The Mediation Questionnaire for this case was filed on 12/19/2020. To submit pertinent **confidential** information directly to the Circuit Mediators, please use the following [link](#). Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts. [11933777]. [20-56328] (AD) [Entered: 12/19/2020 06:44 PM]
- 12/21/2020 5
Filed (ECF) notice of appearance of Kerry W. Franich (Severson and Werson 19100 Von Karman Ave., #700, Irvine, CA 92612) for Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 12/21/2020. (Party was previously proceeding with counsel.) [11934514] [20-56328] (Franich, Kerry) [Entered: 12/21/2020 10:07 AM]
- 12/21/2020 6
Filed (ECF) notice of appearance of Jan T. Chilton (Severson and Werson, One Embarcadero Center., 26th Fl., San Francisco, CA 94111) for Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 12/21/2020. (Party was previously proceeding with counsel.) [11934529] [20-56328] (Chilton, Jan) [Entered: 12/21/2020 10:14 AM]
- 12/21/2020 7
Added Attorney(s) Jan T. Chilton, Kerry W. Franich for party(s) Appellee Bank of America, N.A. Appellee Wells Fargo Bank, N.A., in case 20-56328. [11934642] (RR) [Entered: 12/21/2020 10:48 AM]
- 12/22/2020 8
6 pg, 328.39 KB
Filed Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Mediation Questionnaire. [11938792] (RR) [Entered: 12/23/2020 04:14 PM]
- 12/22/2020 9
731 pg, 41.2 MB
Received Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville notice regarding notice and statement concering RTs form. [11938849] (RR) [Entered: 12/23/2020 04:38 PM]
- 12/23/2020 10
The Mediation Questionnaire for this case was filed on 12/22/2020. To submit pertinent **confidential** information directly to the Circuit Mediators, please use the following [link](#). Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts. [11941592]. [20-56328] (AD) [Entered: 12/23/2020 06:44 PM]
- 12/23/2020 11
10 pg, 1.46 MB
Filed (ECF) Appellant Mrs. Dee Anetionette Deville Correspondence: Notice of errata motion because the appellants inadvertently failed to attach form 6 to form 1.. Date of service: 12/23/2020 [11944666] [20-56328] (Deville, Dee) [Entered: 12/23/2020 09:43 PM]
- 01/04/2021 12
COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [13]. Original Text: Filed (ECF) Appellant Mr. Frank Deville Correspondence: Appellants Frank Deville & Dee Deville Notice, notifying the Court that due to logistical issues related to the COVID-19 Virus, appellants requires a 60-day extension of time to file Opening Brief, which is currently due February 16, 2021.. Date of service: 01/04/2021 [11951473] [20-56328] (Deville, Frank) [Entered: 01/04/2021 03:00 PM]
- 01/04/2021 13
8 pg, 1.1 MB
Filed (ECF) Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Motion to extend time to file Opening brief. Date of service: 01/04/2020. [11952669]--[COURT ENTERED FILING to correct entry [12].] (SLM) [Entered: 01/05/2021 11:31 AM]
- 01/05/2021 14
9 pg, 1.25 MB
Filed (ECF) Appellant Mr. Frank Deville Correspondence: Notice of Errata to appellants motion for extension of time. Date of service: 01/05/2021 [11953623] [20-56328] (Deville, Frank) [Entered: 01/05/2021 05:47 PM]
- 01/19/2021 15
1 pg, 104.24 KB
Filed clerk order (Deputy Clerk: SSR): Appellants' motion (Docket Entry Nos. [13] & [14]) for an extension of time to file the opening brief is granted. The opening brief is due May 17, 2021. The answering brief is due June 16, 2021. The optional reply brief is due within 21 days after service of the answering brief. [11968350] (WL) [Entered: 01/19/2021 03:20 PM]

- 02/26/2021 16
67 pg, 9.75 MB Filed (ECF) Appellant Mrs. Dee Anetionette Deville EMERGENCY Motion for miscellaneous relief [emergency to conclude proceedings and relief from harassment]. Date of service: 02/26/2021. [12018851] [20-56328] (Deville, Dee) [Entered: 02/26/2021 11:56 PM]
- 04/16/2021 17
1 pg, 99.39 KB Filed order (RICHARD R. CLIFTON and DANIEL A. BRESS) Appellants' emergency motion to conclude proceedings in related appeal No. 20-56030 (Docket Entry No. [16]) is denied as unnecessary. The mandate issued in that appeal on February 25, 2021. Appellants' emergency motion for protection from harassment (Docket Entry No. [16]) is denied. The existing briefing schedule remains in effect. [12077114] (OC) [Entered: 04/16/2021 11:21 AM]
- 04/28/2021 18
97 pg, 14.63 MB Filed (ECF) Appellant Mr. Frank Deville petition for panel rehearing and petition for rehearing en banc (from 04/16/2021 opinion). Date of service: 04/28/2021. [12090465] [20-56328] (Deville, Frank) [Entered: 04/28/2021 04:57 PM]
- 04/28/2021 19
23 pg, 2.91 MB Filed (ECF) Appellant Mr. Frank Deville EMERGENCY Motion to extend time to file Opening brief until 08/30/2021. Date of service: 04/28/2021. [12090502] [20-56328] (Deville, Frank) [Entered: 04/28/2021 05:24 PM]
- 05/17/2021 20
42 pg, 6.88 MB Submitted (ECF) Opening Brief for review. Submitted by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. Date of service: 05/17/2021. [12116002] [20-56328]--[COURT UPDATE: Attached searchable PDF. 05/18/2021 by LA] (Deville, Frank) [Entered: 05/17/2021 11:26 PM]
- 05/17/2021 21
2055 pg, 353.11 MB Submitted (ECF) excerpts of record. Submitted by Appellants Mr. Frank Deville and Mrs. Dee Anetionette Deville. Date of service: 05/17/2021. [12116006] [20-56328] (Deville, Dee) [Entered: 05/17/2021 11:54 PM]
- 05/18/2021 22 COURT DELETED DUPLICATE ENTRY. (This copy of Volume 2 is missing page 309.) Notice about deletion sent to case participants registered for electronic filing. Correct Entry: [21]. Original Text: Submitted (ECF) excerpts of record. Submitted by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. Date of service: 05/17/2021. [12116008] [20-56328] (Deville, Dee) [Entered: 05/18/2021 12:00 AM]
- 05/18/2021 23
2 pg, 96.42 KB Filed clerk order: The opening brief [20] submitted by Mrs. Dee Anetionette Deville and Mr. Frank Deville is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: not applicable. The excerpts of record [21] submitted by Mrs. Dee Anetionette Deville and Mr. Frank Deville are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12116653] (LA) [Entered: 05/18/2021 12:10 PM]
- 05/21/2021 24
11 pg, 1.52 MB Filed (ECF) Errata to Opening Brief ([20] Brief Submitted for Review (ECF Filing)). Filed by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. Date of service: 05/21/2021. [12121757] [20-56328]--[COURT UPDATE: Removed errata to excerpts and correspondence (refiled at [25] and [26]). 05/24/2021 by LA] (Deville, Frank) [Entered: 05/21/2021 09:05 PM]
- 05/21/2021 25
25 pg, 4.46 MB Filed (ECF) Errata to excerpts of record ([21] Excerpts of Record Submitted (ECF Filing)). Filed by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. Date of service: 05/21/2021. [12122152]--[COURT ENTERED FILING to correct entry [24].] (LA) [Entered: 05/24/2021 10:16 AM]
- 05/21/2021 26
6 pg, 1.05 MB Filed (ECF) Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Correspondence: declaration in support of order to file brief in paper format. Date of service: 05/21/2021 [12122159]--[COURT ENTERED FILING to correct entry [24].] (LA) [Entered: 05/24/2021 10:19 AM]
- 05/24/2021 27 Received 6 paper copies of Opening Brief [20] filed by Mrs. Dee Anetionette Deville and Mr. Frank Deville. [12122541] (SD) [Entered: 05/24/2021 01:45 PM]
- 05/24/2021 28 Received 3 paper copies of excerpts of record [21] in 7 volume(s) filed by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. [12123408] (KWG) [Entered: 05/25/2021 09:28 AM]
- 06/09/2021 29 Filed (ECF) Streamlined request for extension of time to file Answering Brief by Appellees Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A.. New requested due date is 07/16/2021. [12138629] [20-56328] (Stoltzman, Michael) [Entered: 06/09/2021 10:31 AM]
- 06/14/2021 30 Streamlined request [29] by Appellees Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A. to extend time to file the brief is approved for all Appellees. Amended briefing schedule: Appellees Bank of America, N.A., Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U.S. Bank, N.A. and Wells Fargo Bank, N.A. answering brief due 07/16/2021. The optional reply brief is due 21 days from the date of service of the answering brief. [12143148] (JN) [Entered: 06/14/2021 11:28 AM]

- 06/17/2021 31
29 pg, 100.5 KB Submitted (ECF) Answering Brief for review. Submitted by Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 06/17/2021. [12146976] [20-56328] (Franich, Kerry) [Entered: 06/17/2021 10:26 AM]
- 06/17/2021 32
419 pg, 47.99 MB Submitted (ECF) supplemental excerpts of record. Submitted by Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 06/17/2021. [12146981] [20-56328] (Franich, Kerry) [Entered: 06/17/2021 10:29 AM]
- 06/17/2021 33
2 pg, 96.51 KB Filed clerk order: The answering brief [31] submitted by Bank of America, N.A. and Wells Fargo Bank, N.A. is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The supplemental excerpts of record [32] submitted by Bank of America, N.A. and Wells Fargo Bank, N.A. are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12147188] (KT) [Entered: 06/17/2021 12:22 PM]
- 06/23/2021 34 Received 3 paper copies of supplemental excerpts of record [32] in 2 volume(s) and index volume filed by Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. [12152363] (KWG) [Entered: 06/23/2021 02:23 PM]
- 06/23/2021 35 Received 6 paper copies of Answering Brief [31] filed by Bank of America, N.A. and Wells Fargo Bank, N.A.. [12152395] (AML) [Entered: 06/23/2021 02:31 PM]
- 07/03/2021 36
25 pg, 4.83 MB Submitted (ECF) Reply Brief for review. Submitted by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. Date of service: 07/03/2021. [12162439] [20-56328]--[COURT UPDATE: Attached searchable PDF. 07/06/2021 by LA] (Deville, Frank) [Entered: 07/03/2021 08:28 PM]
- 07/03/2021 37
302 pg, 21.03 MB Submitted (ECF) further excerpts of record. Submitted by Appellants Mr. Frank Deville and Mrs. Dee Anetionette Deville. Date of service: 07/03/2021. [12162440] [20-56328] (Deville, Frank) [Entered: 07/03/2021 08:36 PM]
- 07/06/2021 38
2 pg, 96.4 KB Filed clerk order: The reply brief [36] submitted by Mrs. Dee Anetionette Deville and Mr. Frank Deville is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: not applicable. The further excerpts of record [37] submitted by Mrs. Dee Anetionette Deville and Mr. Frank Deville are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12163560] (LA) [Entered: 07/06/2021 01:40 PM]
- 07/07/2021 39
6 pg, 817.12 KB Filed (ECF) Appellant Mr. Frank Deville Correspondence: Declaration of proof of mailing the 6 copies of reply brief with attached form 18 and 3 copies of Further excerpts of record per order dkt 38.. Date of service: 07/07/2021 [12165882] [20-56328] (Deville, Frank) [Entered: 07/07/2021 10:09 PM]
- 07/09/2021 40 Received 3 paper copies of further excerpts of record [37] in 1 volume and index volume (bound together) filed by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. [12168009] (LA) [Entered: 07/09/2021 11:16 AM]
- 07/09/2021 41 Received 6 paper copies of Reply Brief [36] filed by Mrs. Dee Anetionette Deville and Mr. Frank Deville. [12168431] (SD) [Entered: 07/09/2021 02:25 PM]
- 07/12/2021 42
4 pg, 248.39 KB Filed (ECF) Appellees Specialized Loan Servicing LLC, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A. Motion to extend time to file Answering brief until 09/17/2021. Date of service: 07/12/2021. [12169658] [20-56328] (Stoltzman, Michael) [Entered: 07/12/2021 11:42 AM]
- 07/16/2021 43
53 pg, 268.89 KB Submitted (ECF) Answering Brief for review. Submitted by Appellees Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7 and U.S. Bank, N.A.. Date of service: 07/16/2021. [12174904] [20-56328] (Stoltzman, Michael) [Entered: 07/16/2021 01:57 PM]
- 07/16/2021 44
38 pg, 2.84 MB Submitted (ECF) supplemental excerpts of record. Submitted by Appellees Specialized Loan Servicing LLC, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A.. Date of service: 07/16/2021. [12174913] [20-56328] (Stoltzman, Michael) [Entered: 07/16/2021 02:00 PM]
- 07/16/2021 45
2 pg, 96.42 KB Filed clerk order: The answering brief [43] submitted by Specialized Loan Servicing LLC, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A. is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: red. The supplemental excerpts of record [44] submitted by Specialized Loan Servicing LLC, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A. are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12175309] (KWG) [Entered: 07/16/2021 04:46 PM]

- 07/22/2021 46
1 pg, 120.97 KB Filed order (RICHARD R. CLIFTON and DANIEL A. BRESS) Appellants' motion for reconsideration of the court's April 16, 2021 order (Docket Entry No. [18]) is denied. See 9th Cir. R. 27-10. The motion for reconsideration en banc (Docket Entry No. [18]) is denied on behalf of the court. See 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11. The motions for extensions of time to file the opening brief (Docket Entry No. [19]) and the answering brief (Docket Entry No. [42]) are denied as moot. The opening and answering briefs have been filed. The optional reply brief remains due within 21 days after service of the answering brief. [12180479] (WL) [Entered: 07/22/2021 03:02 PM]
- 07/22/2021 47 Deleted Incorrect Entry [12180556] (WL) [Entered: 07/22/2021 03:33 PM]
- 07/26/2021 48 Received 3 paper copies of supplemental excerpts of record [44] in 1 volume(s) filed by Appellees Specialized Loan Servicing LLC, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A.. [12182867] (KWG) [Entered: 07/26/2021 12:05 PM]
- 07/26/2021 49 Received 6 paper copies of Answering Brief [43] filed by Specialized Loan Servicing LLC, Towd Point Mortgage Trust 2020-1 and U.S. Bank, N.A.. [12183149] (DB) [Entered: 07/26/2021 02:18 PM]
- 08/05/2021 50
25 pg, 5.78 MB Submitted (ECF) Reply Brief for review. Submitted by Appellants Mr. Frank Deville and Mrs. Dee Anetionette Deville. Date of service: 05/05/2021. [12193595] [20-56328]--[COURT UPDATE: Attached searchable PDF. 08/06/2021 by KWG] (Deville, Dee) [Entered: 08/05/2021 06:27 PM]
- 08/05/2021 51
267 pg, 29.54 MB Submitted (ECF) further excerpts of record. Submitted by Appellants Mr. Frank Deville and Mrs. Dee Anetionette Deville. Date of service: 08/05/2021. [12193611] [20-56328] (Deville, Dee) [Entered: 08/05/2021 07:53 PM]
- 08/06/2021 52
2 pg, 96.44 KB Filed clerk order: The reply brief [50] submitted by Mrs. Dee Anetionette Deville and Mr. Frank Deville is filed. Within 7 days of the filing of this order, filer is ordered to file 6 copies of the brief in paper format, accompanied by certification (attached to the end of each copy of the brief) that the brief is identical to the version submitted electronically. Cover color: not applicable. The further excerpts of record [51] submitted by Mrs. Dee Anetionette Deville and Mr. Frank Deville are filed. Within 7 days of this order, filer is ordered to file 3 copies of the excerpts in paper format securely bound on the left side, with white covers. The paper copies shall be submitted to the principal office of the Clerk. [12193838] (KWG) [Entered: 08/06/2021 09:34 AM]
- 08/09/2021 53 Received 6 paper copies of Reply Brief [50] filed by Mrs. Dee Anetionette Deville and Mr. Frank Deville. [12196101] (SD) [Entered: 08/09/2021 03:21 PM]
- 08/10/2021 54 Received 3 paper copies of further excerpts of record [51] in 1 volume(s) filed by Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville. [12197118] (KWG) [Entered: 08/10/2021 12:55 PM]
- 08/10/2021 55
11 pg, 1.43 MB Filed (ECF) Appellant Mrs. Dee Anetionette Deville Correspondence: Appellants coincidentally, failed to include the index volume 2 to the excerpts of records, so the appellants reserved the documents 3 copies of excerpts of record and 6 copies of reply brief on August 8 2021 FedEx receipt tracking #282322891200. Date of service: 08/10/2021 [12197163] [20-56328] (Deville, Dee) [Entered: 08/10/2021 01:26 PM]
- 01/27/2022 56
7 pg, 540.49 KB FILED MEMORANDUM (BARRY G. SILVERMAN, RICHARD R. CLIFTON and ANDREW D. HURWITZ) AFFIRMED. FILED AND ENTERED JUDGMENT. [12352927] (MM) [Entered: 01/27/2022 09:00 AM]
- 02/08/2022 57
206 pg, 5.57 MB Filed (ECF) Appellant Mrs. Dee Anetionette Deville petition for panel rehearing and petition for rehearing en banc (from 01/27/2022 memorandum). Date of service: 02/08/2022. [12364707] [20-56328] --[COURT UPDATE: Attached searchable version of petition and declaration. 2/9/2022 by TYL] (Deville, Dee) [Entered: 02/08/2022 10:15 PM]
- 04/18/2022 58
1 pg, 121.71 KB Filed order (BARRY G. SILVERMAN, RICHARD R. CLIFTON and ANDREW D. HURWITZ) The panel has voted to deny the petition for panel rehearing. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. See Fed. R. App. P. 35. Plaintiffs' petition for panel rehearing and petition for rehearing en banc (Docket Entry No. [57]) are denied. No further filings will be entertained in this closed case. [12424429] (WL) [Entered: 04/18/2022 02:31 PM]
- 04/26/2022 59
1 pg, 93.77 KB MANDATE ISSUED. (BGS, RRC and ADH) [12430941] (HH) [Entered: 04/26/2022 09:35 AM]

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Frank Deville & Dee Deville
Appellant(s),

9th Cir. Case No. 20-56328

vs.

District Court or
BAP Case No. 2:20-cv-05576-JGE

Specialized Loan Servicing LLC, et al
Appellee(s).

APPELLANT'S INFORMAL OPENING BRIEF

(attach additional sheets as necessary, up to a total of 50 pages including this form)

JURISDICTION. This information helps the court determine if it can review your case.

1. Timeliness of Appeal:

- a. What is the date of the judgment or order that you want this court to review? 6/25/2020, 7/2/2020, 9/11/2020, 9/8/2020, 9/9/2020, 9/11/2020, 12/2/2020, 7/29/2020, 11/20/20, 10/15/20
- b. Did you file any motion, other than for fees and costs, after the judgment was entered? Answer yes or no: yes

- If you did, on what date did you file the motion? 11/23/20 Doc # 190
- For prisoners or detainees, what date did you give the motion to prison authorities for mailing? _____
- What date did the district court or bankruptcy appellate panel (BAP) decide the motion that you filed after judgment? _____

c. What date did you file your notice of appeal? _____

- For prisoners or detainees, what date did you give your notice of appeal to prison authorities for mailing? _____

9th Cir. Case No. 20-56328

Page 2

FACTS. Include all facts that the court needs to know to decide your case.

2. What are the facts of your case?

see attached document

PROCEEDINGS BEFORE THE DISTRICT COURT OR THE BAP. In this section, we ask you about what happened before you filed your notice of appeal with this court.

3. What did you ask the district court or the BAP to do—for example, did you ask the court to award money damages, issue an injunction, or provide some other type of relief?

money Damages
injunction
see attached document

4. What legal claim or claims did you raise in the district court or at the BAP?

Civil Conspiracy
Actual Fraud
Violation of Cov. of Good Faith & Fair Dealings
Truth & Lending
Civil Contracts
Professional Code 17200, 17201.
Breach of Fiduciary duties
Intentional Infliction
Violation of 15 U.S.C 1641(g)

5. **Exhaustion of Administrative Remedies.** For prisoners, did you use up all administrative remedies for each claim before you filed your complaint in the district court? If you did not, please tell us why.

Yes

9th Cir. Case No. 20-56328

Page 4

PROCEEDINGS BEFORE THE COURT OF APPEALS. In this section, we ask you about issues related to this case before the court of appeals and any previous cases you have had in this court.

6. What issues are you asking the court to review in this case? What do you think the district court or the BAP did wrong?

See attached document

7. Did you present all issues listed in Question 6 to the district court or the BAP?
Answer yes or no: yes

If not, why not?

all information in this document was presented to the district court.

9th Cir. Case No. 20-56328

Page 5

8. What law supports these issues on appeal? (You may refer to cases and statutes, but you are not required to do so.)

See Attached document

9th Cir. Case No. 20-56328

Page 6

9. **Other Pending Cases.** Do you have any other cases pending in the court of appeals? If so, give the name and docket number of each case.

See attached documents

10. **Previous Cases.** Have you filed any previous cases that the court of appeals has decided? If so, give the name and docket number of each case.

See Attached documents

Frank Deville # Doe Deville

Name

P.O. Box 2042

Glendora, CO 91740

Address

Frank Deville & # Doe Deville

Signature

5/17/2021

Date

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 8. Certificate of Compliance for Briefs

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form08instructions.pdf>

9th Cir. Case Number(s)

I am the attorney or self-represented party.

This brief contains words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief (*select only one*):

- complies with the word limit of Cir. R. 32-1.
- is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.
- is an **amicus** brief and complies with the word limit of Fed. R. App. P. 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).
- is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.
- complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):
 - it is a joint brief submitted by separately represented parties;
 - a party or parties are filing a single brief in response to multiple briefs; or
 - a party or parties are filing a single brief in response to a longer joint brief.
- complies with the length limit designated by court order dated
- is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

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**UNITED STATES COURTS OF APPEALS
FOR THE NINTH CIRCUIT**

Fank Deville & Dee Deville
Appellant(s)

9th Cir. Case No. 20-56328

vs.

District Court

Case No.: 2:20-cv-05576-JGB-E

Specialized Loan Servicing LLC et al.
Appellee(s)

APPELLANTS INFORMAL OPENING BRIEF

I. TIMELINE OF APPEAL

- a. Date of judgement? 6/25/2020 doc #13, 7/2/2020 doc #22, 9/11/2020 doc. #126, 8/8/2020 doc.# 92, 9/9/2020 doc. #125, 9/11/2020 doc.# 126.
- b. DAY FILED NOTICE OF APPEAL? 9/30/2020 doc. # 132, AMENDED ON 10/5/2020 doc. # 135. Second appeal dated 12/15/2020 doc. # 193, amended on 12/16/2020 doc. # 198 and amended on 1/11/2021 doc. # 201.
- c. Did you file a motion? YES

Motion for pro se electronic filing 6/23/2020 doc. # 4, consent to proceed before US Magistrate Judge 7/2/2020 doc. # 22, request/alter judgement 7/6/2020 doc.# 26, 7/8/2020 Motion to alter judgement doc. #27 & 29,57, motion to consolidate 7/24/2020 doc. # 59, amended motion to alter judgement 8/6/2020 doc.# 88, motion to stay case 9/30/2020 doc.# 133, motion for leave 8/28/2020 doc. #116 & 98, motion for pre-trial conference 8/31/2020 doc. #119, joint report rule 26(f) doc. # 120 & 122, request for ADR 9/5/2020 DOC. # 121, MOTION TO RESCHEDULE 9/8/2020 DOC. # 124, ERRATA MOTION 7/19/2020 DOC. # 45, opposition motion 8/3/2020 doc.# 81 & 82, ex parte application 8/8/2020 doc. #92 & 95, 97, opposition motion 8/12/2020 doc. 99 & 100, reply motion 8/13/2020 doc 102, supplemental motion 8/14/2020 doc. #103, opposition 8/17/2020 doc. # 104, supplemental 8/17/2020 doc # 105 & 106, reply opposition 8/17/2020 doc # 110, 111 & 112, corrected scheduling motion 9/8/2020 doc 124, opposition 9/29/2020 doc. # 131, 10/19/20 Doc.

#166 ;responding to appellees doc. # 154 dated 10/9/20. #, 10/22/20 Doc. # 171; responding to appellees doc. # 159 dated 10/13/20., 10/23/20 doc. # 172;responding to appellees doc. # 155 dated 10/9/20., 10/30/20 doc. #180;responding to appellees doc. # 178 dated 10/30/20., 10/27/20 doc. # 177; responding to appellees doc. # 174 dated 10/26/20. , 10/30/20 doc. #180; responding to appellees doc. # 178 dated 10/30/20. stay motion doc. # 133, reconsideration/dismissal doc. # 190, statement of the issues 10/5/20 doc. # 136, statement of the issues 12/16/20 doc. 197-4 (ER-2012-ER-2033).

DATE OF ORDERS

12/2/2020 on the stay order

7/29/2020 Rule 60

11/23/20 rehearing rule 59(e)

11/20/2020 motion to dismiss complaint

9/9/2020 motion to dismiss complaint

10/15/2020 corrected motion to seek relief from judgment

2. WHAT ARE THE FACTS OF THE CASE

Appellants are pro se litigants who have lived in there home for over 18 years, who were working individuals, husband retired from his job after 30 of service and the wife retired from here job after 20 years but both retired due to medical disabilities and Appellants were late only four times with there mortgage, in which all arrearages have been paid twice and since have been current for first mortgage Wells Fargo N.A Bank (as Wells) and second previous Bank of America N.A and now Currently U.S Bank N.A (as U.S Bank) whose third party servicer Specialized Loan Servicing LLC (as SLS) and (collectively as Appellees). Appellants had to file for bankruptcy due to appellees misrepresentation. Appellants felt that the illegal acts were made with ill will, and an intent to vex, harass, intimidate, humiliate, input fear of retribution.The appellees have caused Appellants extreme distress. A breach of contract has occurred. In addition to oppressive conduct, fraud and malice

conduct toward the Appellants. The Appellants are a victim of a co-conspiracy crime. Appellants did not waive their right for review. Appellants exhausted all remedies.

A district court generally should not grant a Rule 59(e) motion in the absence of "newly discovered evidence," "clear error," or "an intervening change in the controlling law." 389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999). A Rule 59(e) motion "may not be used to raise arguments or present evidence for the first time when they could reasonably have been raised earlier." Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000).

In the Bankruptcy Well filed and declared concerning the deed of trust (Vol. 4, ER-1004-ER-1006) which is attached to the proof of claim (Vol. 4, ER-967-ER995). Appellants filed for adversary on 7/25/2017 and amended on 12/6/2017, 12/20/201. Filed request for entry of discharged on 3/29/2018 (Vol. 5,ER-1216), with declaration on 3/29/2018 (Vol.5,ER-1210-ER-1213) resulted in Wells Fargo filing there contested on 3/27/2018 (Vol. 5,ER-1380-ER-1382), in that filing wells did not mention that they were not served until the clerk requested for them to amend their complaint on and dismissed on 5/8/2018 (Vol.5,ER-1409-ER-1413). In the minutes of hearing clearly reveals wells being present at all three hearings (Vol.1, ER-200-ER-204)

On 10/6/2017(Vol. 2, ER-366-ER-376), amended on 5/11/2018 (Vol. 2,ER-379-ER-382), 8/17/2018 (Vol. 2, ER-384-ER-441).filed for the state case Filed request for entry of discharge on 3/14/2018 (Vol. 4, ER-1189) which resulted in Wells Fargo filing there contested on 11/13/2018, eight months later, declared about the deed (Vol. 5, ER-1375-ER-1378) and dismissed on 8/27/2018 (Vol. 5, ER-1082-ER-1085),order sustaining (Vol. 2,

ER443-ER-444) and appealed on 10/5/2018 and dismissed on 10/4/2019 (Vol. 2, ER-447-449). Summary docket history in ca. Appeal (Vol. 7, ER-2043-ER-2046) and rehearing (Vol. 7, ER-2048) the California Supreme court (Vol. 7, ER-2049) and the U.S Supreme court (Vol. 7, ER-2047).

In opposition to the transfer of claim 6-1 for SLS from the bankruptcy court and appealed to the district court by choice, SLS was not present at the hearing on 1/7/2020 and the issues were rule 3001(e), 3001 & 3007 denied on 1/8/2020. Appealed on 11/12/2019 and district court of appeal denied on 6/3/2020 (Vol. 6, ER-1761-ER-1764) without allowing the appellants the opportunity to see the deficiency and allowing the pro se appellants the opportunity to cure. SLS had a non california attorney signed in as their attorney in the bankruptcy court (Vol. 1, ER-254). Sls ignored the court directed ADR program.

Appellants believe there is fraud on the court in the state court overlooked the entry of default Vol.4, ER-1189) and the superior court requested the appellants to go into details about the money lost in the order and in third amended complaint the appellants did., bankruptcy court and an error of decision in the district court of appeal which did not allow the appellants the opportunity to see the deficiency and allow the pro se appellant the opportunity to cure. Appellants were denied the right for due process. and the right of a pro se litigant to know the deficiencies of the complaint to make corrections.

Appellants believe In the superior court the Appellants did state a claim (ER VOL, 2, 384-441). Appellants and their decision conflicts with federal laws. It was denied by the court and by the appeals court. The appellees filed the deeds of trust illegitimately in the state court and the

bankruptcy court, we believe that it is fraud on the court and believe that reviewing the order is necessary to prevent unfairness.

Appellants believe In the Bankruptcy court the appellants did state a claim did serve the defendant according to their own admittance in their response in the Adversary case.

Appellants filed this lawsuit on June 23, 2020 amended the complaint on 7/3/2020 docket #[18], requested leave to Amend complaint in response to the defendants opposition on 9/25/2020 docket # [127] and the most recent requested leave to Amend complaint in response to the defendants opposition on 10/9/2020 docket # [154], [159] & [155]. Appellants filed within the 21 days.

a. The Trial court Erred in his decision denying appellants relief to alter-judgment

Appellants' case has established jurisdiction to the Western Division cover sheet doc # 21 & 83 (Vol. 2, ER-320-ER-322), appellants' declination to the transfer for lack of jurisdiction appellants' decline pursuit of Civil Code 28 U.S § 1391(c)(2) no consent by both defendant nor appellants' (ER VOL. 2, ER-316) and for error in the filing of the civil cover sheet allow the appellants' to receive relief pursuant to Rule60(a). Relief from a Judgment or Order. Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record.

Decision was made in the court to alter-judgement docket # 60 (ER VOL. 2, ER-331), which the magistrate judge denied without prejudice so that appellants' could receive relief from judgement. The court has gave the wrong description of Docket # 60 according to the new summary that was printed out

on 10/5/2020 attached to this document (ER VOL.3, ER-755-ER-759) but the summary docket dated 9/30/2020 attached to this document (ER VOL.6, ER-1513-ER-1519).

Therefore, the decision to deny appellants alter judgment in the case should be reversed and remanded.

b. The Trial court Erred in his decision denying appellants relief to do a complete consolidation of case

Pursuit to Civil Code section 1048, appellants' Frank Deville and Dee Deville collectively as "appellants," seeks consolidation of the case To prevent unnecessary duplication of evidence and procedures, inconsistent adjudications, under CCP section 1048. The Same common questions of law or facts before this court will be the issues. Consolidating the case will prevent jury confusion and duplication. The appellants' due to the conspiracy and the co-conspirators

In the case, the appellants' requested to have the parties to respond with a consolidated reply.

The case has already a consolidated case number but appellants' request that the response be consolidated to prevent duplication and confusion in the case. Hearing scheduled together to prevent confusion. There are multiple defendants and appellants' due process right to have a fair trial would be affected, it's almost impossible to respond to all defendants properly and fairly. Appellants' response was late to some of the appellants responses due to the inability to respond timely. The trial court was aware of the appellants' concerns.

Therefore, the decision to deny appellants' request to consolidate in the case should be reversed and remanded.

c. The Trial court Erred in his decision in the Proceedings in the court

Wells is not properly assigned on the note and should not be able to be judicially noticed by the court.

U.S Bank is not properly assigned on the note and should not be able to be judicially noticed by the court).

Therefore, the decision in the case should be reversed and remanded.

d. The Trial court Erred in his decision concerning State court Proceedings

Though, some of the appellants' issues in the state court were mentioned, they were mentioned to show how the defendant Wells Fargo N.A continued their wrong. As stated in the amended complaint their willful conduct did not stop.' Yet, "[i]f the second lawsuit involves a new claim or cause of action, the parties may raise assertions or defenses that were omitted from the first lawsuit even though they were equally relevant to the first cause of action.' A second lawsuit can proceed with similar claims as presented in an earlier, dismissed suit, when the second suit has sufficiently new facts. With the right new facts, res judicata does not bar that second suit.

As the Supreme Court explained more than 50 years ago in Lawlor v. National Screen Service Corp., 349 U.S. 322 (1955), res judicata does not bar a suit, even if it involves the same course of wrongful conduct as alleged earlier, so long as the suit alleges new facts or a worsening of the earlier conditions. That is precisely the case here. However, if the court decides the issues can not, it should not preclude the unlitigated claims

and continued issues as stated in this case that were not a part of the previous litigation.

Therefore, the decision in the case should be reversed and remanded.

e. The Trial court Erred in his decision concerning State court Proceedings

The court ordered the appellants to separate the defendants when alleging the issues. When the appellant alleged what the issues were the complaint was expanded because of repetitive complaints against the defendants but acquired the same complaints.

Therefore, the decision in the case should be reversed and remanded.

f. The Trial court Erred in his decision concerning Bankruptcy Proceedings

The appellants' missed two payments with BOA at the time of the bankruptcy filing on 12/28/2016 and have not missed any thereafter, some of which were not properly applied, causing to double pay some payments after the transfer of claim and appellants' did not have any problems with the proof of claim, which was miss stated in the district courts order the appellants' did not object to the proof of claim because there weren't any issues concerning it. During the transfer of claim official documents were passed as though it was recorded but it was not, the document was never filed making them participants of violation of 1641; the document was never filed therefore never endorsed or recorded with the proper endorsement at the Recorder's office. The confirmation of the plan was 1/30/2017 and the amended plan payments was paid directly to BOA according to the plan who is now supposedly U.S Bank and SLS as the servicer, the arrearage amount was cured with BOA/SLS through the plan

dated 3/29/2019 who supposedly transferred to SLS as servicer which shows in the plan payment summary dated 7/22/2020 that shows clearly \$0.00 amount owed.

The appellants' missed 3 payments with Wells Fargo and attempted to pay but after the denial of the loan modification, which was filed in 2016 but was denied in addition to refusing to accept full payment until after 30 days had pass and if the appellants' would had waited they would had legal rights to do an nonjudicial foreclosure but the appellants' felt uneasy so was forced to filed the bankruptcy proceedings.

Appellants' felt that the illegal acts were made with ill will, and an intent to vex, harass, intimidate, humiliate and input fear of retribution. The defendants have caused appellants' extreme distress. A breach of contract has occurred. In addition to oppressive conduct, fraud and malice conduct toward the appellants'. The appellants' are a victim of a co-conspiracy crime.

Appellants' deserve protection. Appellants' allege that the Note in this case was never lawfully negotiated and endorsed to the Trust violating 18 U.S.C §§ 152 & 3571 as stated in the TAC. Mortgage Pass through Trust (i.e R.E.M.C.), as defined in Title 26, Subtitle A, Chapter 1, Subchapter M, P II, §§ 805-862) cannot hold assets, for if they do, their tax exempt status is violated and the Trust itself is void ab initio.

SLS rights should have been waived when they did not appear at the bankruptcy opposition hearing at the trial (ER VOL. 6, ER-1599-ER-1605.

Therefore, the decision in the case should be reversed and remanded.

g. The Trial court Erred in his decision concerning Bankruptcy Appeal

The appeal was only based on opposition to the transfer of claim (ER VOL. 5, ER-1358-ER-1360) , not the proof of claim filed in the court by BOA. Because BOA did not request a stay lift.

The only parties involved were SLS as the servicer for U.S Bank, which failed to appear and violated the courts order. In Addition the appellants' did not bring up rule 3001 or 3007 as an issue in the civil complaint.

This appeal affected the district court judgement because of a conflict arising from his participation in an earlier proceeding. The Supreme Court, in a 5-to-4 opinion written by Justice Kennedy, "conclude[d] that there is a serious risk of actual bias—based on objective and reasonable perception.

Therefore, the decision in the case should be reversed and remanded.

h. The Trial court Erred in the decision concerning fraud on the Court

Defendants and all of them, has standing where it is the holder or assignee of the underlying note at the time the action is commenced, Bay Holdings, LLC v Albanese, 146 AD3d 849, 851-852 [2017], "Either a written assignment of the underlying note or the physical delivery of the note, is sufficient to transfer the obligation, and the mortgage passes with the debt as an inseparable incident" (U.S. Bank N.A. v Henry, 157 AD3d at 840-841), but they did not. Appellants do have standing (Deutsche Bank Natl. Trust Co. v. Adlerstein) according to the TAC ¶¶ 31-34 & 26-27. The bankruptcy court erred when they did not verify that the defendants helded the title on the property before processing their documents. Wells , and U.S Bank and their server SLS passed the deed as if it

was officially assigned but it was not deceiving the court as well as the appellants'. How could a deed be passed without catching any attention. The document was filed in the bankruptcy court and the state court but did not raise a brow.

Fraud on the court only involves court officials or officers of the court, such as judges or court-appointed attorneys. The fraud must be directed at the "judicial machinery" itself. Fraud on the court occurs, the effect is that the entire case is voided or cancelled. Any ruling or judgment that the court has issued will be void. The case will usually need to be retried with different court officials, often in an entirely different venue. For the officials who acted in fraud upon the court, they may very well be required to step down from their position and may even be subjected to criminal consequences like a fine or a jail sentence. It could also result in other serious consequences, such as an attorney being disbarred, or a judge being removed from service. If a court official is found to be biased or prejudiced even before fraud occurs, they are required to excuse themselves from the case, and a different official must be appointed. In some jurisdictions, a trial tainted by fraud on the court will be vacated or set aside for a certain time period (such as two years), to be "reopened" at a later date.

When an officer of the court is found to have fraudulently presented facts to impair the court's impartial performance of its legal task, the act (known as fraud upon the court) is not subject to a statute of limitation. This mainly covers a "fraud where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function — thus where the impartial functions of the court have been directly corrupted." In this regard, the U.S. Court of Appeals for the Third Circuit has stated the following: In order to meet the necessarily demanding standard for proof of fraud upon the court we conclude that there must be: (1) an intentional fraud; (2) by an officer

of the court; (3) which is directed at the court itself; and (4) in fact deceives the court. Officers of the court in general include any judge, law clerk, court clerk, lawyer, investigator, probation officer, referee, legal guardian, parenting-time expeditor, mediator, evaluator, administrator, special appointee, and/or anyone else whose influence is part of the judicial mechanism. Which the appellants' case according to TAC ¶¶ 63.

All the defendants co-conspired together by failing to abide by the courts order becoming contempt of court by failing to ignore the bankruptcy stay in the court and conspired together to defraud the appellants' rights by neglecting to file a motion to lift the stay before proceeding with the transfer of claim in the court. Double jeopardy is triggered. The Supreme Court held in United States v. Scott, stated that Misrepresentations and false statements made; which substantially undermine the judicial process, by preventing appellants' from having the analyzing process enforced.

Therefore, the decision in the case should be reversed and remanded.

i. The Trial court Erred in his decision concerning Legal Standing for failure to state a claim

The court ordered the appellants to separate the defendants when alleging the issues. When the appellant alleged what the issues were the complaint was expanded because of repetitive complaints against the defendants but acquired the same issues for rule 8.

The fraud claim for defendants Here, there was intentional fraud and deceit because Wells. BOA , U.S Bank & SLS knowingly falsified documents or passed as though they were proper, and intentionally filed misleading information. In order to have Fraud there must be a misrepresentation of an existing material fact made knowingly, with intent to induce appellants' reliance. There was intent because the Defendants

knowingly misrepresented themselves. It is foreseeable that this would induce the appellants' reliance. Appellants' relied on all the defendants and a relation of trust and confidence that did exist. Defendants misled appellants' and the court because the deed of trust wasn't properly assigned after the sale of property. (VOL. 4, ER-1087-ER-1095) & (VOL.4,ER-1097-ER-1103).

The Defendants actively concealed information from the appellants' as they attempted to be informed. Moreover, the Defendants actively concealed in which is a form of misrepresentation. In order to be deceitful a scienter is essential. A scienter has knowledge of the nature of one's act or omission or of the nature of something in one's possession, and intends to defraud. There was intent to defraud because BOA defrauded appellants' by holding onto payments that were received after the transfer, raising appellants' payments during bankruptcy (exhibit B, page 453 and page 447) violating rule **15 USC 1639: (d) Limitations after default, BOA were in violation and violated rule 8 U.S CODE § 1324c** by filing false information or passing on official documents in the TAC ¶¶ 143 and they violated the stay order (exhibit B, page 112).

The reliance caused the appellants' to justifiably rely on the defendants because appellants' paid several double payments to SLS servicer for U.S Bank, in which one was cashed by Wells Fargo making them co-conspirators of this scheme because they were unsure of the validity of the transfer.

Defendants conspire one with another making them all liable individually and simultaneously. There are nine claims and all were not a part of the previous litigations making the res judicata unenforceable as a defence.

Therefore, the decision in the case should be reversed and remanded.

j. The Trial court Erred in his decision concerning Claim Preclusion

In judicial proceedings, claim preclusion only applies to adverse parties, it does not apply to co-parties (ex: a party that has been joined via Federal Rule of Civil Procedure 19 or Federal Rule of Civil Procedure 20). Contrast this rule with collateral estoppel (also known as "issue preclusion"), which applies to both co-parties and adverse parties. Only if the co-parties were a part of the previous suit or could have been but all were not. SLS, BOA, U.S Bank were not a part of the state court proceedings and the issues at hand could not be litigated because the issues did not exist.

Constitutional Standards: Injury in Fact, Causation, and Redressability.—Although the Court has been inconsistent, it has now settled upon the rule that, "at an irreducible minimum," the constitutional requisites under Article III for the existence of standing are that the appellants' must personally have: 1) suffered some actual or threatened injury; 2) that injury can fairly be traced to the challenged action of the defendant; and 3) that the injury is likely to be redressed by a favorable decision.

Unripe claims cannot later serve as a basis for res judicata. *Rawe v. Liberty Mut. Fire Ins. Co.*, 462 F.3d 521, 529–30 (6th Cir. 2006). The appellants' believe they did not receive a fair trial because they were not assigned an attorney and appellants' could not find any legal help. To prevent unfairness to the appellants' they should have the opportunity for the case to be heard by a jury.

Therefore, the decision in the case should be reversed and remanded.

k. **The Trial court Erred in his decision concerning**

Identity of Claim

Res judicata does not bar a suit, even if it involves the same course of wrongful conduct as alleged earlier, so long as the suit alleges new facts or a worsening of the earlier conditions.

Not fair to grant preclusion when burden significantly changed and when there is a Clear and convincing need for a new determination of the issue (a) because of the potential adverse impact of the determination on the potential adverse impact of the determination on public interest or the interests of persons not themselves parties to the initial action, (b) because it was not sufficiently foreseeable at the time of the initial action that the issue would arise in the context of a subsequent action, or (c) because the party sought to be precluded, as a result of the conduct of his adversary or other special circumstances, did not have an adequate opportunity or incentive to obtain full and fair adjudication in the initial action.

Therefore, the decision in the case should be reversed and remanded.

l. **The Trial court Erred in his decision concerning Privity**
Between Parties

Though the appellants had a legal contract each contract when referring to the issues were separate. When joinder of a particular claim is not available in first action (for example, sue in state court and also have another claim in which federal court has exclusive jurisdiction), there is no res judicata effect. Parties in many cases, claims against additional parties could be joined under the rules but will not be barred by res judicata if they are not. (If this were not true, permissive joiners would be turned into compulsory joinder). Core rule of preclusion can't preclude a party who was not party to

1st action. Everyone gets their opportunity to be heard in court (both parties don't need to be the same but the precluded party needs to be the party of first action.).

Under this mutuality doctrine, neither party could use a prior judgment as an estoppel against the other unless both parties were bound by the judgment.

Therefore, the decision in the case should be reversed and remanded.

m. The Trial court Erred in his decision concerning Contempt of court

The defendants intentionally neglected the stay in the bankruptcy court. Wells cashed a cashier's check made out for SLS, the servicer on the loan and U.S Bank or the trustee on the note without proper assignment, making them participants in a conspiracy fraud scheme which exposed their participation. The defendants were aware of the stay in the court because they filed a transfer of claim in the court (exhibit B, page 522) The defendants contempt in district court, contempt of court for non appearance and at the bankruptcy court hearing and for untimely appearance at the hearing for the notice of appeal the case should had been ruled in favor of the debtors because the defendants did not show and did not in neither circumstances request for relief or extension . The appellants' state in the TAC ¶¶ 250: "All the defendants violated the stay in one way or another according to rule 4001.(a)(1).

Therefore, the decision in the case should be reversed and remanded.

n. The Trial court Erred in his decision concerning denying leave to Amend

According to Rule 15. Amended and Supplemental Pleadings (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. The Courts give special

consideration to pro se litigants requesting leave to amend a complaint.

“Courts are particularly reluctant to deny leave to amend to pro se litigants.”

Flowers v. First Hawaiian Banks, 295 F.3d 966, 976 (9TH CIR. 2002).

“[u]nless it is absolutely clear that no amendment can cure the defect....a pro se litigant is entitled to notice of the complaint deficiencies and as opportunity to amend prior to dismissal of the action.” *Lucas v. Dept. of Corrections*, 66 F.3d 245, 248 (9th Cir. 1985).

Therefore, the decision in the case should be reversed and remanded.

o. Collateral Estoppel

The appellants' had procedural difficulties and that all four elements were not present in this case. a second lawsuit can proceed with similar claims as presented in an earlier, dismissed suit, when the second suit has sufficiently new facts. With the right new facts, res judicata does not bar that second suit.

Therefore, the decision in the case should be reversed and remanded.

PROCEEDINGS BEFORE THE DISTRICT COURT

3. What did you ask the district court?
 - a. Appellants asked the district court for relief from judgement.
 - b. To consolidate the case completely.
 - c. To be heard by the magistrate judge because the appellants are pro se litigants.
 - d. Request to stay the district court case.
 - e. Extension of time to file an amended complaint.
 - f. Motion Pre-Trial Statement
 - g. Joint Report
 - h. Request ADR Motion
 - i. Errata Motion
 - j. Motion to Reschedule
 - k. Opposition Motion
 - l. Reply Motions

- m. Corrected scheduling Motion
 - n. Rehearing Motion Rule 59(e)
 - o. For civil penalties pursuant to statute, restitution, and injunctive relief;
 - p. Any other and further relief that the court considers just and proper.
 - q. Declaratory Judgment, Deprivative damages, money judgment
 - r. For prejudgment and post-judgment interest
 - s. For insurance of order cancelling the DOT, NOD
 - t. Assignment of DOT pursuant to California Civil Code §3412
 - u. all persons unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the complaint adverse to Appellants title, or any cloud on Appellants title thereto.
4. What legal claim or claims did you raise in the district court.
- a. CONSPIRACY 42 U.S. Code § 1985. Conspiracy to interfere with civil rights
 - b. ACTUAL FRAUD CA. CIV. CODE § 1573, § 1572(3)(5)
 - c. VIOLATION OF COVENANT OF GOOD FAITH & FAIR DEALING
 - d. TRUTH AND LENDING LAWS § 1026.41 AND § 1026.40,
 - e. CIVIL CONTEMPT CCP § 1218
 - f. PROFESSIONAL CODE 17200, 17201 ET SEQ;
 - g. BREACH OF FIDUCIARY DUTIES;
 - h. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
 - i. VIOLATION OF 15 U.S.C. 1641(g)

5. Exhaustion of Administrative remedies. for each claim before you filed your complaint in the district court? Yes the Appellants exhausted out all remedies.

6. What issues are you asking the court to review in this case ?

All orders and filings in the district court and to revisit the filings in the state court and Bankruptcy Court. Reviewing the proceedings will allow this court to see that fraud is on the court which resulted in the absence of their due process rights.

A. First Notice of Appeal/ Second Notice of Appeal

There is a reasonable question for review. Pursuit to rule 28 U.S.C § 1291 . Hacienda Val-ley Mobile Estates v. City of Morgan Hill Rent Review Comm'n, 353 F.3d 651, 653 (9th Cir. 2003). The notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the

judgment or order appealed from which appellants has. This appeal is from a final judgement that became final while an en banc review pending in the ninth Circuit court. The prior Appeal was from a final judgement that the rulings consciously decided an issue separate from the merits of the case and would be effectively unreviewable after final judgement. Cohen v. Beneficial Indus. Loan Corp., 337 u.s 541, 546(1949), such rulings are deemed 'final within the meaning of 28 U.S.C §1291. This appeal was dismissed for lack of jurisdiction on 10/15/2020 closed case #20-56030 and a request for review/en banc was filed on 10/27/2020, while still pending in the ninth Circuit court. The district court filed its final judgement on 11/20/2020, which has resulted in this second appeal.

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

Due to harassment by the defendants the appellants filed an emergency motion on 2/26/2021 and denied on 4/16/2021 and another en banc filed on 4/28/2021 (ER VOL. 7, ER-2026-ER-2042) Requesting a stay until a decision is made in the case.

Errors of law or fact in the court's decision. See McDowell v. Calderon, 197 F.3d 1253, 1255 n. 1 (9th Cir. 1999)(banc)(Rule 59(e) is available to ("correct manifest errors of law or fact upon which the judgment is based.").

B. Exceptional circumstances does exit

Exceptional circumstances does exist, only three types of arguments provide an appropriate basis for a motion for reconsideration: arguments based on newly discovered evidence, arguments that the court has committed clear error, and arguments based on "an intervening change in the controlling law." 389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999). A manifest showing of a failure to consider material facts presented to the Court before such decision. The appellants allege error." United States v. Fiorelli, 337 F.3d 282, 338 (3d Cir. 2003). As such, Rule 59(e) can be used to pursue post-judgment relief on almost any grounds. The district court has committed a clear error.

C. State courts proceedings

Appellants request for review for error of judgement and for conflicting federal laws and fraud on the court..

D. Bankruptcy proceedings

Appellants request for review error in judgement and for fraud on the court.

E.

1. Wells Fargo predatory lending practices toward the appellants are clear. Wells filed a consent order admitting to numerous lending law violations (Vol. 5 ER-1229-ER-1233). Wells informed the court that World savings were the original on the loan but Ammes were (Vol. 4, ER-1052-ER-1057). Wells loan modification extended appellants loan for almost 50 years (ER VOL. 1, ER-235-ER-236) . Wells Fargo Bank N.A has also. omitted information from the bankruptcy court, misapplied payments and made payments late (ER VOL. 4, ER-1072-ER-1074, ER VOL. 4 ER-1156- ER-1158) that were not (ER VOL. 4, ER-1063-ER-1070, ER-1160-ER-1163) . They filed a proof of claim (ER VOL. 4,

ER-967-ER-996) in the court declaring the arrearage amount that was about \$17,000 dollars owed but it was not. Declared concerning the deed of trust filed in the court. Appellants owed arrearage of \$0.00 dated 12/31/2020 (ER VOL. 1, 260) as seen in the declaration of postpetition. Wells failed to apply all of the post petition payments according to the release agreement (ER VOL. 4, ER-1044-ER-1046) . Appellants communicated about their concerns but wells neglected to correct (Vol. 4, ER-1184-ER-1187)

Defendants attached the deed of trust to their proof of claim as if the Note bearing all the intervening endorsements showing a complete chain of endorsements from the originator to the last endorsee. Wells was told by the clerk to file a withdrawal of the document (ER VOL. 5, ER-1409-ER-1413) dated 4/19/2018. In that coincidentally, the defense document response they never mention that they were not served dated 4/19/2018 and Wells cashed a cashier's check made out for SLS (ER VOL. 5, ER-1398) making them co-conspirators and Wells willfully violated the stay. Wells was aware of the stay in the court (ER VOL. 6, ER-1697-1698) because they filed a proof of claim in the court (ER VOL. 4, ER-967-ER-995). Wells filed an official document with the IRS, with misleading information. Wells have misapplied payments and misapplied escrow payments. Wells filed a consent order agreeing to numerous violations concerning lending laws (Vol. 5, ER-1434-ER-1464) and (Vol. 5, ER-1466-1480).

2. BOA filed a consent order agreeing to lending violations (Vol. 5, ER-1235-ER-1241) .BOA filed incorrect tax information to the IRA (Vol. 5, ER-1247) when you compare to the proof of claim. Defendant BOA sent a letter informing the transfer for servicing (ER VOL. 2, ER-531-ER-532) will go to SLS only; but when the claim transfer was filed on 10/18/2019, it reported that the servicer will be different, and the owner

will be different That letter stated that no payments would be accepted after September 27, 2019, but payments were received after that date (ER VOL. 5, ER-1272-ER-1273) and never applied to loan and refuse to be clear who owed the loan and BOA ignored letters requesting for clarity and returned mail when the correct address was on the addressee (ER VOL. 3, ER-788-ER-789) . Appellants paid both until the information about the loan was clarified. BOA, while sleeping on its rights in bankruptcy court that should affect BOA's rights on the property. BOA should lose its rights (according to 3001(e)(2), if a timely objection is not filed by the alleged transferor, the transferee shall be substituted for the transferor, transfer of claims filed on 5/13/2020 (ER VOL. 1, ER-28-ER-30).

A private person has standing to sue for relief under the unfair competition law only if he or she "has suffered injury in fact and has lost money or property as a result of the unfair competition." While Appellants have lost money, BOA has at least one payment that they are holding and never was applied properly to the account before the supposedly transfer. BOA raised their equity payment from \$274.31 to \$894.95. on 12/16/2016 (ER VOL. 3, ER-821 -- ER-823) and on 8/16/2019 exhibit J, way more than debtors could afford in hope for Appellants to default while debtors were in bankruptcy according to the bankruptcy rules and willfully violated the stay. BOA was aware of the stay because they filed a proof of claim in the case (ER VOL. 1, ER-168 -- ER-172). Appellants go into great details (Vol. 3; ER-76-ER-783), this is just one response.

3. According to the facts, U.S Bank as indentured trustee and as trustee and SLS as their third party servicer on the loan. U.S Bank willfully violated the stay. The **Appellees violated the judge's indirect order.**

4. According to the facts and one of the motions that went into great details (Vol. 5-6, ER-1481-ER-1509). Specialized Loan Servicing LLC as SLS. U.S Bank as indentured trustee and as trustee and SLS as their third party servicer on the loan. SLS the agent to U.S Bank, has refused to supply the appellants with a periodic monthly statement to date (Vol. 7, ER-1804-ER-1805). Denying appellants the right to make payments as any regular consumer would have, forcing appellants to make payments through money gram (Vol. 6, ER-1549-ER-1564) just to have proof of payments but without the opportunity according to lending laws to see how the payments were applied violates the lending laws for servicing companies. SLS most recently participated in unlawful foreclosures as seen in the consent order (ER VOL. 6, ER-1768-ER-1799). SLS in this suit violated numerous lending laws including to refuse to supply consumers with a periodic monthly statement. Order by U.S Bank but SLS are ratifying the conduct, their actions have resulted in deprivation of rights and damages. SLS willfully violated the stay. **The Appellees violated the judge's indirect order. SLS filed incorrect information to IRS (Vol. 5, ER-1249-ER-1250).**

5. **CONSPIRACY 42 U.S. Code § 1985. Conspiracy to interfere with civil rights.**

Once you conspire you are liable. Specific intent crimes are intentional. According to the facts, there was intent to agree and/or intent to accomplish the objective. **If the conspiracy scheme to foreclose would have worked all the appellees would benefit by financial gain.**

(For all appellees: ER VOL. 3, ER-864-ER-871).

6. **ACTUAL FRAUD CA. CIV. CODE § 1573, § 1572(3)(5)**

Here, there was intentional fraud and deceit because appellees

and all of them, knowingly failed to serve as a reasonably careful person would act in similar circumstances; That the appellants suffered harm; and The conduct of the accused was a substantial factor in causing the appellants harm. (See CACI No. 4101). In order to have Fraud there must be a misrepresentation of an existing material fact made knowingly, with intent to induce appellants reliance. (For all appellees: ER VOL. 3, ER-871-ER-894)

7. VIOLATION OF COVENANT OF GOOD FAITH & FAIR DEALING by the appellees and all of them This covenant is included within any loan agreement between a lender and a borrower (citing to Wyatt v. Union Mortgage Co. 24 Cal. 3d 773, 783).” Miller & Starr, California Real Estate 3d, Lenders’ Liability §36:17, pp. 24-25. (For all appellees: ER VOL. 3, ER-894-ER VOL. 4, ER-907)

8. TRUTH AND LENDING LAWS § 1026.41 AND § 1026.40,
Appellees and all of them, did not properly apply some payments, marked some payments late when they were made timely and mishandled escrow payments violating lending laws. TILA's statute of limitation is subject to equitable tolling, so the court is not automatically deprived of subject matter jurisdiction. Equitable tolling is the doctrine under which appellants may sue after the statutory time limit has expired if they have been prevented from suing due to inequitable circumstances. In law, inequitable conduct has to do with lying or withholding information during the process of suing someone, which took place in this case. Ellis v. General Motors Acceptance Corp., 160 F.3d 703 (11th Cir., 1999). (For all appellees: ER VOL. 4, ER-907-ER-916)

9. CIVIL CONTEMPT CCP § 1218
The appellees and all of them intentionally neglected the

stay in the bankruptcy court violation according to rule 4001.(a)(1) and the automatic stay 11 U.S.C § 362.

Wells cashed a cashier's check made out for SLS, making them participants in a conspiracy fraud scheme which exposed their participation. Wells was aware of the stay in the court because they filed a proof of claim in the court. The appellants state in the TAC ¶¶ 250: "All the defendants violated the stay (Vol. 4, ER-814-ER-815) in one way or another according to rule 4001.(a)(1).(For all appellees: ER VOL.4, ER-916-ER-920)

10. PROFESSIONAL CODE 17200, 17201 ET SEQ;

Appellees and all of them violated business professional code § 17200, which states:, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising. Any act prohibited by Chapter 1 (commencing with Section 17500). (For all appellees: ER VOL. 4, ER-920-ER-923)

11. BREACH OF FIDUCIARY DUTIES;

(For all appellees: ER VOL. 4, ER-923-ER-933)

12. INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS

The appellees conduct has been so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community. Defendants have misapplied payments and refuse to current according to § 1026.9(a)(2), have held onto payments, refuse to give mortgage statements according to § 1026.7 Periodic statements. Forcing appellants to be frustrated, having anxiety about making payments because

of the fear of none payments when indeed the payments were indeed paid. Appellees filed false tax information, which could affect the appellants tax benefits. (For all appellees: ER VOL. 4, ER-933-ER-947).

13. VIOLATION OF 15 U.S.C. 1641(g)

For all appellees: VOL. 4, ER-947-ER-949).

Libral ability to amend

The court should give the Fed leave. R. Civ. P. 15(a)(2) when justice so requires (ER VOL. 3, ER 824-VOL. 5, ER-1488) The Courts give special consideration to pro se litigants requesting leave to amend a complaint. "Courts are particularly reluctant to deny leave to amend to pro se litigants." *Flowers v. First Hawaiian Banks*, 295 F.3D 966, 976 (9TH CIR. 2002), "[u]nless it is absolutely clear that no amendment can cure the defect....a pro se litigant is entitled to notice of the complaint deficiencies and as opportunity to amend prior to dismissal of the action." *Lucas v. Dept. of Corrections*, 66 F .3d 245, 248 (9th Cir. 1985).

An amendment will not unduly prejudice defendant because Pursuant to Rule 15(c)(2), "An amendment of a pleading relates back to the date of the original pleading when the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading." Fed. R. Civ. P. 15(c)(2). The Fourth Circuit has set forth a two-prong test for determining whether an amendment relates back: (1) "[f]irst, to relate back there must be a factual nexus between the amendment and the original complaint; and (2) "[s]econd, if there is some factual nexus an amendment is liberally construed to relate back to the original complaint if the defendant had notice of the

claim and will not be prejudiced by the amendment.” *Farb v. Federal Kemper Life Assur. Co.*, 213 F.R.D. 264, 267 (D. Md. 2003) (citation omitted).

It is undisputed that a factual nexus exists here. The amendments all stem from the same conduct, transactions, and occurrences described in the original complaint. Defendants’ actions surrounding the management of appellants loans due to defamation and intentional and willful conduct and conspiring with the co-operators continuing the participation has created harm and injury to the appellants.

According to Rule 15. Amended and Supplemental Pleadings (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. Defendants and all of them filed a response on 10/9/20 DOC. #154, 10/9/20 Doc. # 155 & 10/13/20 Doc. # 159 and quickly responded on October 19, 2020 docket #166 Vol.3, (ER-761-ER-823), #171 Vol. 5-6, (ER-1481-ER-1659) and #176 Vol. 6, (ER-1672-ER-1714).

Klapprott v. United States, 335 U.S. 601 (1949). The court now has power "to vacate judgments whenever such action is appropriate to accomplish justice.

7. Did you present all issues listed in Question 6 and all information stated in this document and its entirety presented to district court ?

Yes, the appellants presented the listed in questions to the district court.

8. What law supports these issues on appeal ?

CASES:

Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000).

389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999).

Bay Holdings, LLC v Albanese, 146 AD3d 849, 851-852 [2017]

Lawlor v. National Screen Service Corp., 349 U.S. 322 (1955)

U.S. Bank N.A. v Henry, 157 AD3d at 840-841

Deutsche Bank Natl. Trust Co. v. Adlerstein)

Rawe v. Liberty Mut. Fire Ins. Co., 462 F.3d 521, 529-30 (6th Cir. 2006)

Klapprott v. United States, 335 U.S. 601 (1949)

Flowers v. First Hawaiian Banks, 295 F.3D 966, 976 (9TH CIR. 2002)

Lucas v. Dept. of Corrections, 66 F .3d 245, 248 (9th Cir. 1985)

United States v. Fiorelli, 337 F.3d 282, 338 (3d Cir. 2003).

RULES:

28 U.S § 1391(c)(2)

18 U.S.C §§ 152 & 3571

rule 8

15 USC 1639: (d)

Federal Rule of Civil Procedure 19

rule 4001.(a)(1)

Rule 15

Rule 59(e)

Civil Code section 1048

Civil Code §3412

8 U.S CODE § 1324c

Rule60(a)

9. Other Pending Cases?

a. 20-56328; En Banc

10. Previous Cases ?

a. En Banc

b. B293129

c. BC678763

d. S258725

e. 19-7511

f. 20-56030

g. 5:20-cv-00158-JGB

h. 2:20-cv-05576-JGB-E

i. 6:16-bk-20478-SY

j. 6:17-ap-01152-SY

Conclusion

Appellants request that the court review the state, bankruptcy and district court decision due to error of law and fraud on the court.

Appellants declare that all information in this opening brief is true and correct to the best of our ability. All documents are true and correct copy attached to the expert of records.

Date: May 17th, 2021

Signed By:

Frank Deville
Frank Deville

Dee Deville
Dee Deville

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 17. Statement of Related Cases Pursuant to Circuit Rule 28-2.6

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form17instructions.pdf>

9th Cir. Case Number(s)

The undersigned attorney or self-represented party states the following:

- I am unaware of any related cases currently pending in this court.
- I am unaware of any related cases currently pending in this court other than the case(s) identified in the initial brief(s) filed by the other party or parties.
- I am aware of one or more related cases currently pending in this court. The case number and name of each related case and its relationship to this case are:

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 18. Certificate for Paper Copy of Electronic Brief

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9th Cir. Case Number(s)

My name is

I certify that this brief is identical to the version submitted electronically on (date):

Signature

Date

(either manual signature or "s/[typed name]" is acceptable)

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 15. Certificate of Service for Electronic Filing

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9th Cir. Case Number(s) 20-56328

I hereby certify that I electronically filed the foregoing/attached document(s) on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

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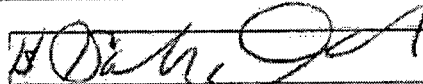
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I certify that I served the foregoing/attached document(s) on this date by hand delivery, mail, third party commercial carrier for delivery within 3 calendar days, or, having obtained prior consent, by email to the following unregistered case participants (*list each name and mailing/email address*):

Description of Document(s) (*required for all documents*):

Opening Brief, Exerts of Records volume 1-7, Certificate of service form 18 & 15 and related case form 17
opening Brief attached to Appellants Informal opening Brief.

Signature 

Date 5/17/2021

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 15. Certificate of Service for Electronic Filing

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9th Cir. Case Number(s) 20-56328

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opening Brief attached to Appellants Informal Opening Brief.

Signature  Date 5/17/2021
(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

Return to Service List Page

Service List for Case: 20-56328 Frank Deville et al v. Specialized Loan Servicing LLC et al

Parent Associated Cases: none

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1 of 42

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| Kevin W. Franich Severson & Werson, APC 100 Von Karman Avenue Suite 700 Menlo Park, CA 92612 Email: kwf@severson.com | 20-56328 | Email | Active |
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| Kate Sullivan Severson & Werson APC Suite 2600 1 Embarcadero Center San Francisco, CA 94111 Email: mks@severson.com | 20-56328 | Email | Active |

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

JAN 27 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANK DEVILLE; DEE ANETIONETTE
DEVILLE,

Plaintiffs-Appellants,

v.

SPECIALIZED LOAN SERVICING LLC,
Individually and as Servicing agent for Towd
Point Mortgage trust 2020-1; et al.,

Defendants-Appellees.

No. 20-56328

D.C. No. 2:20-cv-05576-JGB-E

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Jesus G. Bernal, District Judge, Presiding

Submitted January 19, 2022**

Before: SILVERMAN, CLIFTON, and HURWITZ, Circuit Judges.

Frank Deville and Dee Anetionette Deville appeal pro se from the district court's judgment dismissing their action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for

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

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

failure to comply with the pleading requirements of Federal Rule of Civil Procedure 8. *Pickern v. Pier 1 Imports (U.S.), Inc.*, 457 F.3d 963, 968 (9th Cir. 2006). We affirm.

The district court properly dismissed plaintiffs' action because, despite being granted an opportunity to amend, plaintiffs' operative amended complaint failed to comply with Rule 8. *See* Fed. R. Civ. P. 8(a)(2) (a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief"); *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996) (a complaint that is "argumentative, prolix, replete with redundancy, and largely irrelevant" fails to comply with Rule 8); *Nevijel v. N. Coast Life Ins. Co.*, 651 F.2d 671, 674 (9th Cir. 1981) (a complaint that is "verbose, confusing and conclusory" violates Rule 8).

The district court did not abuse its discretion by granting defendants' requests for judicial notice. *See Harris v. County of Orange*, 682 F.3d 1126, 1132 (9th Cir. 2012) (explaining that "documents on file in federal or state courts" are properly the subject of judicial notice); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (standard of review).

The district court did not abuse its discretion by denying further leave to amend because amendment would have been futile, as the district court correctly concluded plaintiffs' claims were barred by claim preclusion. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth

standard of review and explaining that leave to amend may be denied when amendment would be futile); *Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1072 (9th Cir. 2008) (“[T]he district court’s discretion to deny leave to amend is particularly broad where plaintiff has previously amended the complaint.” (citation and internal quotation marks omitted)).

We reject as without merit plaintiffs’ contentions that the district court erred by denying their motion to consolidate and motion to alter the judgment.

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

AFFIRMED.

(Ex),CLOSED,DISCOVERY,MANADR,RELATED-055a

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)
CIVIL DOCKET FOR CASE #: 2:20-cv-05576-JGB-E**

Frank Deville et al v. Specialized Loan Servicing LLC et al
Assigned to: Judge Jesus G. Bernal
Referred to: Magistrate Judge Charles F. Eick
Related Case: 5:20-cv-00158-JGB
Case in other court: 9th CCA, 20-56030
9th CCA, 20-56328
Cause: 15:1640 Truth in Lending

Date Filed: 06/23/2020
Date Terminated: 11/20/2020
Jury Demand: Plaintiff
Nature of Suit: 371 Truth in Lending
Jurisdiction: Federal Question

Plaintiff**Frank Deville**

represented by **Frank Deville**
P.O. Box 2042
Glendora, CA 91740
909-921-7053
Email: frankdevillessa@gmail.com
PRO SE

Plaintiff**Dee Anetionette Deville**

represented by **Dee Anetionette Deville**
PO Box 2042
Glendora, CA 91740
909-921-7053
Email: ddeville40@gmail.com
PRO SE

V.

Defendant

Specialized Loan Servicing LLC
*Individually and as Servicing agent for Towd
Point Mortgage trust 2020-1*

represented by **Timothy M Ryan**
The Ryan Firm APC
2603 Main Street, Suite 1225
Irvine, CA 92614
949-263-1800
Fax: 949-872-2211
Email: tryan@theryanfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Andrew Jonathan Mase
Ryan Firm APC
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949-263-1800
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ATTORNEY TO BE NOTICED

Michael W Stoltzman , Jr

Ryan Firm APC
2603 Main Street Suite 1225
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949-263-1800
Fax: 949-872-2211
Email: ecf@theyanfirm.com
ATTORNEY TO BE NOTICED

Defendant

U.S. Bank National Association
*as servicing agent for Towd Point Master
Funding Trust 2019-PM7
TERMINATED: 09/25/2020*

represented by **Timothy M Ryan**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Andrew Jonathan Mase
(See above for address)
ATTORNEY TO BE NOTICED

Michael W Stoltzman , Jr
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

U.S. Bank National Association
*as Indenture Trustee and as servicing agent for
Towd Point Master Funding Trust 2019-PM7,*

represented by **Timothy M Ryan**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Andrew Jonathan Mase
(See above for address)
ATTORNEY TO BE NOTICED

Michael W Stoltzman , Jr
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Bank of America, N.A.

represented by **John Owen Campbell**
Severson and Werson APC
The Atrium
19100 Von Karman Avenue 7th Floor
Irvine, CA 92612-6578
949-442-7110
Fax: 949-442-7118
Email: joc@severson.com
ATTORNEY TO BE NOTICED

Defendant

Wells Fargo Bank N.A.

represented by **Mary Kate Sullivan**
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One Embarcadero Center Suite 2600
San Francisco, CA 94111
415-398-3344
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ATTORNEY TO BE NOTICED*

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Email: anb@severson.com
ATTORNEY TO BE NOTICED

Defendant

All Persons Unknown

*claiming any legal or equitable right, title,
estate, lien or interest in the property described
in the complaint adverse to plaintiffs' title, or any
cloud on plaintiffs' title thereto*

Defendant

Does

1-20, inclusive

Defendant

U S Bank National Association
as Trustee

represented by **Timothy M Ryan**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Andrew Jonathan Mase
(See above for address)
ATTORNEY TO BE NOTICED

Michael W Stoltzman , Jr
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Towd Point Mortgage Trust 2020-1
TERMINATED: 09/25/2020

represented by **Andrew Jonathan Mase**
(See above for address)
ATTORNEY TO BE NOTICED

Michael W Stoltzman , Jr
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Towd Point Master Funding Trust 2019-PM7
TERMINATED: 09/25/2020

represented by **Andrew Jonathan Mase**
(See above for address)
ATTORNEY TO BE NOTICED

Michael W Stoltzman , Jr
(See above for address)
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|-----------|--|
| 06/23/2020 | <u>1</u> | COMPLAINT against Defendants. Case assigned to Judge Andre Birotte Jr for all further proceedings. Discovery referred to Magistrate Judge Charles F. Eick.(Filing fee \$ 400 PAID) Jury Demanded, filed by Plaintiffs Dee Deville, Frank Deville. (Attachments: # <u>1</u> Civil Cover Sheet) (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>2</u> | CERTIFICATE of Interested Parties filed by Plaintiffs Dee Deville, Frank Deville (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>3</u> | AFFIDAVIT OF FRANK DEVILLE AND DEE DEVILLE filed by Plaintiffs Dee Deville, Frank Deville (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>4</u> | APPLICATION for Pro Se Litigant to electronically file documents in a specific case filed by Plaintiffs Dee Deville, Frank Deville. (Attachments: # <u>1</u> Lodged Proposed Order) (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>5</u> | 21 DAY Summons Issued re Complaint - (Discovery), <u>1</u> as to Defendant Wells Fargo Bank N.A. (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>6</u> | 21 DAY Summons Issued re Complaint - (Discovery), <u>1</u> as to Defendant Specialized Loan Servicing LLC. (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>7</u> | 21 DAY Summons Issued re Complaint - (Discovery), <u>1</u> as to Defendant U.S. Bank National Association(as Trustee). (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>8</u> | 21 DAY Summons Issued re Complaint - (Discovery), <u>1</u> as to Defendant U.S. Bank National Association(as servicing agent for Towd Point Master Funding Trust 2019-PM7). (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>9</u> | 21 DAY Summons Issued re Complaint - (Discovery), <u>1</u> as to Defendant Bank of America, N.A. (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>10</u> | NOTICE OF ASSIGNMENT to District Judge Andre Birotte Jr and Magistrate Judge Charles F. Eick. (car) (Entered: 06/24/2020) |
| 06/23/2020 | <u>11</u> | NOTICE TO PARTIES OF COURT-DIRECTED ADR PROGRAM filed. (car) (Entered: 06/24/2020) |
| 06/25/2020 | <u>12</u> | STANDING ORDER upon filing of the complaint by Judge Andre Birotte Jr. (cb) (Entered: 06/25/2020) |
| 06/25/2020 | <u>13</u> | ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 19-03-Related Case- filed. Related Case No: 5:20-cv-00158 JGB. Case transferred from Judge Andre Birotte Jr to Judge Jesus G. Bernal for all further proceedings. The case number will now reflect the initials of the transferee Judge 2:20-cv-05576 JGB(Ex). Signed by Judge Jesus G. Bernal (m) (Entered: 06/25/2020) |
| 06/26/2020 | <u>14</u> | ORDER by Judge Jesus G. Bernal: Granting <u>4</u> APPLICATION for Pro Se Electronic Filing. The applicant must register to use the Courts CM/ECF System within five (5) days of being served with this order. Registration information is available at the Pro Se Litigant E-Filing web page located on the Courts website. Upon registering, the applicant will receive a CM/ECF login and password that will allow him/her to file non-sealed documents electronically in this case only. Any documents being submitted under seal must be manually filed with the Clerk. (twdb) (Entered: 06/26/2020) |
| 06/26/2020 | <u>16</u> | 21 DAY Summons Issued re Complaint - (Discovery), <u>1</u> as to defendant U.S. Bank National Association (as Indenture Trustee). (twdb) (Entered: 06/29/2020) |
| 06/26/2020 | <u>17</u> | 21 DAY Summons Issued re Complaint - (Discovery), <u>1</u> as to defendant U.S. Bank National Association(as servicing agent for Towd Point Master Funding Trust 2019-PM7), U.S. Bank National Association(as Indenture Trustee). (twdb) (Entered: 06/29/2020) |
| 06/29/2020 | <u>15</u> | STANDING ORDER upon filing of the complaint by Judge Jesus G. Bernal. (ima) (Entered: 06/29/2020) |

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| 07/02/2020 | <u>22</u> | Notice, Consent, and Reference of a Civil Action to A Magistrate Judge/CONSENT TO PROCEED before Magistrate Judge, in accordance with Title 28 Section 636(c) and F.R.CIV.P 73(b), filed by plaintiff Dee Anetionette Deville, Frank Deville. (twdb) (Entered: 07/06/2020) |
| 07/03/2020 | <u>18</u> | FIRST AMENDED COMPLAINT against Defendants All Plaintiffs amending Complaint - (Discovery), <u>1</u> , filed by plaintiffs Dee Anetionette Deville(Deville, Dee Anetionette) (Entered: 07/03/2020) |
| 07/03/2020 | <u>19</u> | AFFIDAVIT re Affidavit <u>3</u> AMENDED AFFIDAVIT filed by Plaintiff Dee Anetionette Deville (Deville, Dee Anetionette) (Entered: 07/03/2020) |
| 07/03/2020 | <u>20</u> | DECLARATION of Frank Deville and Dee Deville re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> Declaration filed by both plaintiffs filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 07/03/2020) |
| 07/03/2020 | <u>21</u> | AMENDED CIVIL COVER SHEET filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 07/03/2020) |
| 07/06/2020 | <u>23</u> | Amended 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant U S Bank National Association. (twdb) (Entered: 07/07/2020) |
| 07/06/2020 | <u>24</u> | Amended 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant U S Bank National Association. (twdb) (Entered: 07/07/2020) |
| 07/06/2020 | <u>25</u> | Amended 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant U S Bank National Association (as indenture trustee). (twdb) (Entered: 07/07/2020) |
| 07/06/2020 | <u>26</u> | REQUEST for Order to Transfer case back to Judge Andre Birotte Jr. filed by plaintiffs Dee Deville, Frank Deville. (Attachments: # <u>1</u> Proposed Order) (twdb) (Entered: 07/08/2020) |
| 07/08/2020 | <u>27</u> | First NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . Relief From Judgement or Order filed by plaintiffs Frank Deville and Dee Deville. Motion set for hearing on 8/7/2020 at 09:30 AM before Magistrate Judge Charles F. Eick. (Attachments: # <u>1</u> Affidavit of Frank Deville and Dee Deville) (Deville, Frank) (Entered: 07/08/2020) |
| 07/09/2020 | <u>28</u> | NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: First NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . Relief From Judgement or Order <u>27</u> . The following error(s) was/were found: lacking notice of motion. In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (twdb) (Entered: 07/09/2020) |
| 07/09/2020 | <u>29</u> | SUPPLEMENT to First NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . Relief From Judgement or Order <u>27</u> CORRECTION OF DOCKET # 27 for incorrect hearing date] filed by Plaintiff Dee Deville. (Deville, Frank) (Entered: 07/09/2020) |
| 07/09/2020 | <u>30</u> | PROOF OF SERVICE filed by Plaintiffs Frank Deville and Dee Deville Dee Deville, re Deficiency in Electronically Filed Documents (G-112A) - optional html form., <u>28</u> , First NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . Relief From Judgement or Order <u>27</u> , Supplement(Motion related), <u>29</u> CORRECTION OF DOCKET # 27 for incorrect hearing date] served on 7/9/2020. (Deville, Frank) (Entered: 07/09/2020) |
| 07/09/2020 | <u>31</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, Frank Deville, upon Defendant Specialized Loan Servicing LLC served on 7/2/2020, answer due 7/23/2020. Service of the Summons and Complaint were executed upon Agent Natalie E. Lea, (see attachment) in compliance with Federal Rules of Civil Procedure service by mail. Original Summons NOT returned. (twdb) (Entered: 07/13/2020) |

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| 07/09/2020 | <u>32</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, Frank Deville, upon Defendant Specialized Loan Servicing LLC, et al served on 7/3/2020, answer due 7/24/2020. Service of the Summons and Complaint were executed upon Agent Natalie E. Lea, (see attachment) in compliance with Federal Rules of Civil Procedure by mailing a copy. Original Summons NOT returned. (twdb) (Entered: 07/13/2020) |
| 07/09/2020 | <u>33</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, Frank Deville, upon Defendant Specialized Loan Servicing LLC, et al served on 7/8/2020, answer due 7/29/2020. Service of the Summons and Complaint were executed upon Agent Natalie E. Lea, (see attachment) in compliance with Federal Rules of Civil Procedure by mailing a copy. Original Summons NOT returned. (twdb) (Entered: 07/13/2020) |
| 07/13/2020 | <u>34</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, Frank Deville, upon Defendant All Persons Unknown served on 7/6/2020, answer due 7/27/2020; Bank of America, N.A. served on 7/6/2020, answer due 7/27/2020; Specialized Loan Servicing LLC served on 7/6/2020, answer due 7/27/2020; U S Bank National Association served on 7/6/2020, answer due 7/27/2020; U.S. Bank National Association(as servicing agent for Towd Point Master Funding Trust 2019-PM7) served on 7/6/2020, answer due 7/27/2020; U.S. Bank National Association(as Indenture Trustee) served on 7/6/2020, answer due 7/27/2020; Wells Fargo Bank N.A. served on 7/6/2020, answer due 7/27/2020. Service of the Summons and Complaint were executed upon Agent Natalie E. Lea for Specialized Loan Servicing LLC, et al in compliance with Federal Rules of Civil Procedure by mailing a copy. Original Summons NOT returned. (twdb) (Entered: 07/14/2020) |
| 07/13/2020 | <u>35</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, Frank Deville, upon Defendant Specialized Loan Servicing LLC, et al served on 7/8/2020, answer due 7/29/2020. Service of the Summons and Complaint were executed upon Agent Natalie E. Lea, (see attachment) in compliance with Federal Rules of Civil Procedure by mail. Original Summons NOT returned. (twdb) (Entered: 07/14/2020) |
| 07/13/2020 | <u>36</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, Frank Deville, upon Defendant Specialized Loan Servicing LLC, et al served on 7/6/2020, answer due 7/27/2020. Service of the Summons and Complaint were executed upon Agent Natalie E. Lea, (see attachment) in compliance with Federal Rules of Civil Procedure by mailing a copy. Original Summons NOT returned. (twdb) (Entered: 07/15/2020) |
| 07/17/2020 | <u>37</u> | 21 DAY Summons Issued re Amended Complaint/Petition <u>18</u> as to defendant Wells Fargo Bank N.A. (lc) (Entered: 07/17/2020) |
| 07/17/2020 | <u>38</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Specialized Loan Servicing LLC. (twdb) (Entered: 07/17/2020) |
| 07/17/2020 | <u>39</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Specialized Loan Servicing LLC. (twdb) (Entered: 07/17/2020) |
| 07/17/2020 | <u>40</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant U.S. Bank National Association(as servicing agent for Towd Point Master Funding Trust 2019-PM7). (twdb) (Entered: 07/17/2020) |
| 07/17/2020 | <u>41</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Bank of America, N.A.. (twdb) (Entered: 07/17/2020) |
| 07/17/2020 | <u>42</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant U.S. Bank National Association(as trustee). (twdb) (Entered: 07/17/2020) |
| 07/17/2020 | <u>43</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Specialized Loan Servicing LLC, Towd Point Mortgage, Trust 2020-1. (twdb) (Entered: 07/17/2020) |
| 07/17/2020 | <u>44</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Specialized Loan Servicing LLC individually. (twdb) (Entered: 07/17/2020) |

| | | |
|------------|-----------|---|
| 07/19/2020 | <u>45</u> | NOTICE OF ERRATA filed by Plaintiff Dee Deville. correcting Service of Summons and Complaint Returned Executed (21 days), <u>32</u> , Summons Issued <u>39</u> , Service of Summons and Complaint Returned Executed (21 days),,, <u>34</u> , Summons Issued <u>38</u> , Service of Summons and Complaint Returned Executed (21 days), <u>36</u> , Service of Summons and Complaint Returned Executed (21 days), <u>33</u> , Service of Summons and Complaint Returned Executed (21 days), <u>35</u> , Summons Issued <u>40</u> , Summons Issued <u>43</u> , Service of Summons and Complaint Returned Executed (21 days), <u>31</u> <i>Cosmetic errors in the docket text/duplicate E-filing</i> (Deville, Frank) (Entered: 07/19/2020) |
| 07/19/2020 | <u>46</u> | PROOF OF SERVICE filed by plaintiffs' Frank Deville and Dee Deville Dee Deville, re Errata,, <u>45</u> <i>duplicate E-filing/Cosmetic errors in the docket text</i> served on 7/17/2020. (Deville, Frank) (Entered: 07/19/2020) |
| 07/19/2020 | <u>47</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon U.S Bank National Association (as trustee) in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. (Deville, Frank) (Entered: 07/19/2020) |
| 07/19/2020 | <u>48</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon U.S Bank National Association (as indentured trustee) in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. (Deville, Frank) (Entered: 07/19/2020) |
| 07/19/2020 | <u>49</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon TOWD Point Mortgage Trust 2020-1 in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. (Deville, Frank) (Entered: 07/19/2020) |
| 07/19/2020 | <u>50</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon TOWD Point Master Funding 2019-PM7 in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. (Deville, Frank) (Entered: 07/20/2020) |
| 07/20/2020 | <u>51</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon Wells Fargo N.A in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. (Deville, Frank) (Entered: 07/20/2020) |
| 07/20/2020 | <u>52</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon Bank of America N.A in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. (Deville, Frank) (Entered: 07/20/2020) |
| 07/20/2020 | <u>53</u> | PROOF OF SERVICE Executed by Plaintiff Dee Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon Spécialized Loan Servicing, LLC (INDIVIDUAL DEFENDANT) in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. (Deville, Frank) (Entered: 07/20/2020) |
| 07/23/2020 | <u>54</u> | NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' First Amended Complaint filed by Defendant Bank of America, N.A.. Motion set for hearing on 8/31/2020 at 09:00 AM before Judge Jesus G. Bernal. (Attorney John Owen Campbell added to party Bank of America, N.A.(pty:df)) (Campbell, John) (Entered: 07/23/2020) |
| 07/23/2020 | <u>55</u> | NOTICE of Interested Parties filed by Defendant Bank of America, N.A., identifying BAC North America Holding Company, NB Holdings Corporation, Bank of America Corporation. (Campbell, John) (Entered: 07/23/2020) |
| 07/24/2020 | <u>56</u> | NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' First Amended Complaint <u>54</u> . The following error(s) was/were found: Proposed Document was not submitted as separate attachment. In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) |

| | | |
|------------|-----------|--|
| | | order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (twdb) (Entered: 07/24/2020) |
| 07/24/2020 | <u>57</u> | SUPPLEMENT to First NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . <i>Relief From Judgement or Order 27 AMENDED MOTION TO ALTER JUDGEMENT</i> filed by Plaintiff Dee Deville. (Deville, Frank) (Entered: 07/24/2020) |
| 07/24/2020 | <u>58</u> | PROOF OF SERVICE filed by plaintiffs Frank Deville and Dee Deville Dee Deville, re Supplement(Motion related), <u>57</u> <i>PROOF OF SERVICE FOR AMENDED MOTION TO ALTER JUDGEMENT</i> served on 7/24/2020. (Deville, Frank) (Entered: 07/24/2020) |
| 07/24/2020 | <u>59</u> | First NOTICE OF MOTION AND MOTION to Consolidate Cases filed by plaintiffs Frank Deville and Dee Deville Frank Deville. Motion set for hearing on 8/31/2020 at 09:00 AM before Judge Jesus G. Bernal. (Attachments: # <u>1</u> Proposed Order to consolidate case, # <u>2</u> Supplement proof of service) (Deville, Frank) (Entered: 07/24/2020) |
| 07/29/2020 | <u>60</u> | MINUTES (IN CHAMBERS) by Magistrate Judge Charles F. Eick. Plaintiff's "[Motion for] Rule 60. Relief from a Judgment or Order," filed 7/8/20, "Motion to Alter Judgment etc.," filed 7/9/20, and "Amended Motion for Relief from Judgment, etc.," filed 7/24/20, are denied. (See document for further details.) (sp) (Entered: 07/29/2020) |
| 07/29/2020 | <u>61</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Wells Fargo Bank N.A.. (twdb) (Entered: 07/30/2020) |
| 07/29/2020 | <u>62</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to Towd Point Mortgage for Defendant Specialized Loan Servicing LLC. (twdb) (Entered: 07/30/2020) |
| 07/29/2020 | <u>63</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant U S Bank National Association (as trustee). (twdb) (Entered: 07/30/2020) |
| 07/29/2020 | <u>64</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to Towd Point Master Funding 2019 PM7 for defendant U.S. Bank National Association(as servicing agent for Towd Point Master Funding Trust 2019-PM7). (twdb) (Entered: 07/30/2020) |
| 07/29/2020 | <u>65</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Bank of America, N.A.. (twdb) (Entered: 07/30/2020) |
| 07/29/2020 | <u>66</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant Specialized Loan Servicing LLC (individually). (twdb) (Entered: 07/30/2020) |
| 07/29/2020 | <u>67</u> | 21 DAY Summons Issued re First Amended Complaint/Petition <u>18</u> as to defendant U S Bank National Association as indentured trustee. (twdb) (Entered: 07/30/2020) |
| 07/30/2020 | <u>68</u> | NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's First Amended Complaint filed by Defendant Specialized Loan Servicing LLC, U S Bank National Association. Motion set for hearing on 8/31/2020 at 09:00 AM before Judge Jesus G. Bernal. (Attorney Andrew Jonathan Mase added to party Specialized Loan Servicing LLC(pty:dft), Attorney Andrew Jonathan Mase added to party U S Bank National Association(pty:dft)) (Mase, Andrew) (Entered: 07/30/2020) |
| 07/30/2020 | <u>69</u> | REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's First Amended Complaint <u>68</u> filed by Defendants Specialized Loan Servicing LLC, U S Bank National Association. (Mase, Andrew) (Entered: 07/30/2020) |
| 07/30/2020 | <u>70</u> | PROOF OF SERVICE Executed by Plaintiff Dee Anetionette Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon U.S. Bank N.A (as Trustee) in compliance with Federal Rules of Civil Procedure by method of service not specified.Original Summons NOT returned. <i>SERVED AN AMENDED SUMMONS, AMENDED CIVIL COVER SHEET AND FIRST AMENDED COMPLAINT ON ALL PARTIES INCLUDING THE ATTORNEY GENERAL</i> (Deville, Frank) (Entered: 07/30/2020) |

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| 07/30/2020 | <u>71</u> | PROOF OF SERVICE Executed by Plaintiff Dee Anetionette Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon Wells Fargo N.A in compliance with Federal Rules of Civil Procedure by method of service not specified. Original Summons NOT returned. <i>SERVED AN AMENDED SUMMONS, AMENDED CIVIL COVER SHEET AND FIRST AMENDED COMPLAINT TO ALL PARTIES INCLUDING THE ATTORNEY GENERAL BY CERTIFIED MAIL</i> (Deville, Frank) (Entered: 07/30/2020) |
| 07/30/2020 | <u>72</u> | PROOF OF SERVICE Executed by Plaintiff Dee Anetionette Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon U.S Bank N.A (as indentured trustee) in compliance with Federal Rules of Civil Procedure by method of service not specified. Original Summons NOT returned. <i>SERVED AN AMENDED SUMMONS, AMENDED CIVIL COVER SHEET AND FIRST AMENDED COMPLAINT TO ALL PARTIES INCLUDING ATTORNEY GENERAL BY CERTIFIED MAIL</i> (Deville, Frank) (Entered: 07/30/2020) |
| 07/30/2020 | <u>73</u> | PROOF OF SERVICE Executed by Plaintiff Dee Anetionette Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon Bank of America N.A. in compliance with Federal Rules of Civil Procedure by method of service not specified. Original Summons NOT returned. <i>PLAINTIFFS' SERVED AN AMENDED SUMMONS, AMENDED CIVIL COVER SHEET AND FIRST AMENDED COMPLAINT TO ALL PARTIES INCLUDING ATTORNEY GENERAL BY CERTIFIED MAIL</i> (Deville, Frank) (Entered: 07/30/2020) |
| 07/30/2020 | <u>74</u> | PROOF OF SERVICE Executed by Plaintiff Dee Anetionette Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon Specialized Loan Servicing, LLC in compliance with Federal Rules of Civil Procedure by method of service not specified. Original Summons NOT returned. <i>PLAINTIFFS' SERVED AN AMENDED SUMMONS, AMENDED CIVIL COVER SHEET AND FIRST AMENDED COMPLAINT TO ALL PARTIES INCLUDING ATTORNEY GENERAL BY CERTIFIED MAIL</i> (Deville, Frank) (Entered: 07/30/2020) |
| 07/30/2020 | <u>75</u> | PROOF OF SERVICE Executed by Plaintiff Dee Anetionette Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon TOWD Point Master Funding Trust 2019-PM7 in compliance with Federal Rules of Civil Procedure by method of service not specified. Original Summons NOT returned. <i>PLAINTIFFS' SERVED AN AMENDED SUMMONS, AMENDED CIVIL COVER SHEET AND FIRST AMENDED COMPLAINT TO ALL PARTIES INCLUDING ATTORNEY GENERAL BY CERTIFIED MAIL</i> (Deville, Frank) (Entered: 07/30/2020) |
| 07/30/2020 | <u>76</u> | PROOF OF SERVICE Executed by Plaintiff Dee Anetionette Deville, upon Defendant All Plaintiffs. Service of the Summons and Complaint were executed upon TOWD Point Mortgage Trust 2020-1 in compliance with Federal Rules of Civil Procedure by method of service not specified. Original Summons NOT returned. <i>PLAINTIFFS' SERVED AN AMENDED SUMMONS, AMENDED CIVIL COVER SHEET AND FIRST AMENDED COMPLAINT TO ALL PARTIES INCLUDING ATTORNEY GENERAL BY CERTIFIED MAIL</i> (Deville, Frank) (Entered: 07/30/2020) |
| 07/31/2020 | <u>77</u> | NOTICE OF MOTION AND MOTION to Dismiss First Amended Complaint filed by Defendant Wells Fargo Bank N.A.. Motion set for hearing on 8/31/2020 at 09:00 AM before Judge Jesus G. Bernal. (Attachments: # <u>1</u> Proposed Order) (Attorney Adam N Barasch added to party Wells Fargo Bank N.A.(pty:dft)) (Barasch, Adam) (Entered: 07/31/2020) |
| 07/31/2020 | <u>78</u> | REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION to Dismiss First Amended Complaint <u>77</u> filed by Defendant Wells Fargo Bank N.A.. (Attachments: # <u>1</u> Exhibit 1-8 to Request for Judicial Notice)(Barasch, Adam) (Entered: 07/31/2020) |
| 07/31/2020 | <u>79</u> | PROOF OF SERVICE filed by Defendant Wells Fargo Bank N.A., re NOTICE OF MOTION AND MOTION to Dismiss First Amended Complaint <u>77</u> , Request for Judicial Notice <u>78</u> served on 7-31-20. (Barasch, Adam) (Entered: 07/31/2020) |

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| 08/03/2020 | <u>80</u> | JOINDER in NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's First Amended Complaint <u>68</u> - <i>Notice of Joinder and Joinder to Motion to Dismiss [ECF 68-69]</i> filed by Defendants Specialized Loan Servicing LLC, U S Bank National Association. (Mase, Andrew) (Entered: 08/03/2020) |
| 08/03/2020 | <u>81</u> | OPPOSITION to NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' First Amended Complaint <u>54</u> <i>Plaintiffs filed by Frank Deville and Dee Deville</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/03/2020) |
| 08/04/2020 | <u>82</u> | Second NOTICE OF MOTION AND MOTION to AMEND Response in Opposition to Motion <u>81</u> filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville. Motion set for hearing on 8/31/2020 at 09:00 AM before Judge Jesus G. Bernal. (Deville, Frank) (Entered: 08/04/2020) |
| 08/04/2020 | <u>83</u> | THIRD AMENDED CIVIL COVER SHEET filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/04/2020) |
| 08/04/2020 | <u>84</u> | PROOF OF SERVICE filed by plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville, re Summons Issued <u>62</u> , Summons Issued <u>64</u> , Summons Issued <u>66</u> , Summons Issued <u>67</u> , Summons Issued <u>63</u> <i>additional service on Attorney for the defendants</i> served on July 29, 2020. (Deville, Frank) (Entered: 08/04/2020) |
| 08/04/2020 | <u>85</u> | PROOF OF SERVICE filed by plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville, re Civil Cover Sheet (CV-71) <u>83</u> <i>THIRD AMENDED CIVIL COVER SHEET</i> served on 8/4/2020. (Deville, Frank) (Entered: 08/04/2020) |
| 08/05/2020 | <u>86</u> | PROOF OF SERVICE filed by plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville, re Proof of Service (subsequent documents) <u>85</u> <i>AMENDED PROOF OF SERVICE for third amended civil cover sheet</i> served on 8/4/2020. (Deville, Frank) (Entered: 08/05/2020) |
| 08/05/2020 | <u>87</u> | MEMORANDUM in Opposition to First NOTICE OF MOTION AND MOTION to Consolidate Cases <u>59</u> filed by Defendants Specialized Loan Servicing LLC, U S Bank National Association, Towd Point Mortgage Trust 2020-1, Towd Point Master Funding Trust 2019-PM7. (Attorney Andrew Jonathan Mase added to party Towd Point Mortgage Trust 2020-1(pty:dft), Attorney Andrew Jonathan Mase added to party Towd Point Master Funding Trust 2019-PM7(pty:dft)) (Mase, Andrew) (Entered: 08/05/2020) |
| 08/06/2020 | <u>88</u> | Second NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . <i>doc# 60, was the first order made but was denied because scheduled in error with the wrong judge, denied without prejudice to allow plaintiffs to receive relief pursuant to rule 60</i> filed by plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville. Motion set for hearing on 9/7/2020 at 09:00 AM before Judge Jesus G. Bernal. (Deville, Frank) (Entered: 08/06/2020) |
| 08/06/2020 | <u>89</u> | NOTICE OF MOTION re Second NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . <i>doc# 60, was the first order made but was denied because scheduled in error with the wrong judge, denied without prejudice to 88</i> filed by Frank Deville and Dee Deville filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/06/2020) |
| 08/06/2020 | <u>90</u> | PROOF OF SERVICE filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville, re Second NOTICE OF MOTION AND MOTION to Alter Judgment re Transferring Case purs GO 19-03 (Related Case)(CV-34), <u>13</u> . <i>doc# 60, was the first order made but was denied because scheduled in error with the wrong judge, denied without prejudice to 88</i> , Notice of Motion, <u>89</u> served on 8/4/2020. (Attachments: # <u>1</u> Proposed Order)(Deville, Frank) (Entered: 08/06/2020) |
| 08/07/2020 | <u>91</u> | JOINDER filed by Defendant Wells Fargo Bank N.A. joining in MEMORANDUM in Opposition to Motion, <u>87</u> . (Barasch, Adam) (Entered: 08/07/2020) |
| 08/08/2020 | <u>92</u> | First EX PARTE APPLICATION for Order for CONTINUING HEARING ON PLAINTIFFS REPLY FOR DEFENDANTS (DOCKET #68,77 AND 54)MOTION TO DISMISS HEARING SET FOR 8/31/2020 TO 10/5/2020 <i>DEFENDANTS HAVE SET HEARING ALL ON THE SAME</i> |

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| | | <i>DAY MAKING IT DIFFICULT TO FAIRLY REPLY TO ALL SO PLAINTIFFS SEEK AN ORDER TO CHANGE HEARING DATE TO OCTOBER 5, 2020</i> filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville. (Attachments: # <u>1</u> Declaration OF PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE, # <u>2</u> Proposed Order FOR CONTINUANCE OF HEARING, # <u>3</u> Supplement PROOF OF SERVICE FOR EX PARTE CONTINUANCE OF HEARING) (Deville, Frank) (Entered: 08/08/2020) |
| 08/10/2020 | <u>93</u> | MEMORANDUM in Opposition to First EX PARTE APPLICATION for Order for CONTINUING HEARING ON PLAINTIFFS REPLY FOR DEFENDANTS (DOCKET #68,77 AND 54)MOTION TO DISMISS HEARING SET FOR 8/31/2020 TO 10/5/2020 <i>DEFENDANTS HAVE SET HEARING ALL ON THE SAME DAY MAKING IT DIFFICULT TO</i> <u>92</u> - <i>Opposition to Plaintiffs' Ex Parte Application; Declaration of Andrew Mase filed by Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U S Bank National Association. (Mase, Andrew) (Entered: 08/10/2020)</i> |
| 08/10/2020 | <u>94</u> | DECLARATION of Adam N. Barasch ISO Opposition to Plaintiffs' re First EX PARTE APPLICATION for Order for CONTINUING HEARING ON PLAINTIFFS REPLY FOR DEFENDANTS (DOCKET #68,77 AND 54)MOTION TO DISMISS HEARING SET FOR 8/31/2020 TO 10/5/2020 <i>DEFENDANTS HAVE SET HEARING ALL ON THE SAME DAY MAKING IT DIFFICULT TO</i> <u>92</u> filed by Defendant Wells Fargo Bank N.A.. (Barasch, Adam) (Entered: 08/10/2020) |
| 08/11/2020 | <u>95</u> | SUPPLEMENT to First EX PARTE APPLICATION for Order for CONTINUING HEARING ON PLAINTIFFS REPLY FOR DEFENDANTS (DOCKET #68,77 AND 54)MOTION TO DISMISS HEARING SET FOR 8/31/2020 TO 10/5/2020 <i>DEFENDANTS HAVE SET HEARING ALL ON THE SAME DAY MAKING IT DIFFICULT TO</i> <u>92</u> <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE REPLY OPPOSITION AND DECLARATION OF FRANK DEVILLE AND DEE DEVILLE TO DEFENDANTS SPECIALIZED LOAN SERVICING LLC, TOWD POINT MASTER TRUST 2019-PM7, TOWD POINT MORTGAGE TRUST 2020-1, U.S. BANK AS INDENTURED TRUSTEE AND AS TRUSTEE OPPISITION TO PLAINTIFFS EX PARTE APPLICATION: DECLARATION OF ANDREW MASE</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 08/11/2020) |
| 08/11/2020 | <u>96</u> | SUPPLEMENT to First EX PARTE APPLICATION for Order for CONTINUING HEARING ON PLAINTIFFS REPLY FOR DEFENDANTS (DOCKET #68,77 AND 54)MOTION TO DISMISS HEARING SET FOR 8/31/2020 TO 10/5/2020 <i>DEFENDANTS HAVE SET HEARING ALL ON THE SAME DAY MAKING IT DIFFICULT TO</i> <u>92</u> <i>PLAINTIFFS EX PARTE APPLICATION FILED ON 8/8/2020 DOCKET # 92 ,PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE AMENDED REPLY OPPOSITION AND DECLARATION OF FRANK DEVILLE AND DEE DEVILLE DATED 8/11/2020 TO IN RESPONSE TO DEFENDANTS SPECIALIZED LOAN SERVICING LLC, TOWD POINT MASTER TRUST 2019-PM7, TOWD POINT MORTGAGE TRUST 2020-1, U.S. BANK AS INDENTURED TRUSTEE AND AS TRUSTEE OPPOSITION RESPONSE DOCKET 93 TO PLAINTIFFS EX PARTE APPLICATION: DECLARATION OF ANDREW MASE, this supplement is PLAINTIFFS REPLY 'S TO DOCKET # 93</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 08/11/2020) |
| 08/11/2020 | <u>97</u> | SUPPLEMENT to First EX PARTE APPLICATION for Order for CONTINUING HEARING ON PLAINTIFFS REPLY FOR DEFENDANTS (DOCKET #68,77 AND 54)MOTION TO DISMISS HEARING SET FOR 8/31/2020 TO 10/5/2020 <i>DEFENDANTS HAVE SET HEARING ALL ON THE SAME DAY MAKING IT DIFFICULT TO</i> <u>92</u> <i>SUPPLEMENT FOR PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE REPLY OPPOSITION AND DECLARATION OF FRANK DEVILLE FILED DATED 8/11/2020 IN RESPONSE TO THEIR OPPOSITION, FOR DEFENDANT WELLS FARGO BANK N.A FILED DATED 8/10/2020 DOCKET # 94</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 08/11/2020) |
| 08/11/2020 | <u>98</u> | First EX PARTE APPLICATION to Extend Time to File Answer to 9/9/2020 filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville. (Attachments: # <u>1</u> Proposed Order request for extension of time, # <u>2</u> Supplement proof of service for request for extension) (Devillé, Frank) (Entered: 08/11/2020) |

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| 08/12/2020 | <u>99</u> | OPPOSITION to NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's First Amended Complaint <u>68</u> <i>Plaintiffs Frank Deville and Dee Deville</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/12/2020) |
| 08/12/2020 | <u>100</u> | SUPPLEMENT <i>PLAINTIFFS OBJECTION TO DOCKET # 69, JUDICIAL NOTICE</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/12/2020) |
| 08/13/2020 | <u>101</u> | DECLARATION of <i>Frank Deville and Dee Deville for Proof OF filing Attorney General</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/13/2020) |
| 08/13/2020 | <u>102</u> | REPLY opposition <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE MOTION AND DECLARATION</i> (to docket # <u>91</u> AND # <u>87</u> , filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/13/2020) |
| 08/14/2020 | <u>103</u> | SUPPLEMENT to Second NOTICE OF MOTION AND MOTION to AMEND Response in Opposition to Motion <u>81</u> <u>82</u> <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE CORRECTED NOTICE OF MOTION FOR OPPOSITION TO DEFENDANTS BANK OF AMERICA N.A. DISMISSAL TO PLAINTIFFS FIRST AMENDED COMPLAINT</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/14/2020) |
| 08/17/2020 | <u>104</u> | OPPOSITION to NOTICE OF MOTION AND MOTION to Dismiss First Amended Complaint <u>77</u> <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 08/17/2020) |
| 08/17/2020 | <u>105</u> | SUPPLEMENT <i>Plaintiffs Frank Deville and Dee Deville Corrected Notice Of Motion For Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U.S Bank N.A As Indentured Trustee And As Trustee</i> docket # <u>99</u> , <i>CORRECTED NOTICE OF MOTION</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 08/17/2020) |
| 08/17/2020 | <u>106</u> | SUPPLEMENT <i>Plaintiffs Frank Deville And Dee Deville Opposition To Defendants Request For Judicial Notice Wells Fargo Bank N.A. Docket # 78 Plaintiffs Opposition To Defendants Judicial Notice</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 08/17/2020) |
| 08/17/2020 | <u>107</u> | REPLY In Support Of NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' First Amended Complaint <u>54</u> filed by Defendant Bank of America, N.A.. (Campbell, John) (Entered: 08/17/2020) |
| 08/17/2020 | <u>108</u> | REPLY Reply to Opposition to Motion NOTICE OF MOTION AND MOTION to Dismiss First Amended Complaint <u>77</u> filed by Defendant Wells Fargo Bank N.A.. (Barasch, Adam) (Entered: 08/17/2020) |
| 08/17/2020 | <u>109</u> | RESPONSE IN SUPPORT of NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's First Amended Complaint <u>68</u> filed by Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U S Bank National Association. (Mase, Andrew) (Entered: 08/17/2020) |
| 08/17/2020 | <u>110</u> | REPLY opposition <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE REPLY OPPOSITION TO DEFENDANT BANK OF AMERICA N.A REPLY BRIEF IN SUPPORT OF MOTION TO DISMISSAL TO FIRST COMPLAINT DOCKET # 107 PLAINTIFFS REPLY OPPOSITION</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/17/2020) |
| 08/17/2020 | <u>111</u> | REPLY OPPOSITION <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE REPLY OPPOSITION TO DEFENDANT WELLS FARGO BANK N.A. REPLY TO OPPOSITION TO MOTION TO DISMISS FIRST AMENDED COMPLAINT DOCKET # 108 PLAINTIFFS REPLY OPPOSITION</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/17/2020) |
| 08/17/2020 | <u>112</u> | REPLY OPPOSITION <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE REPLY OPPOSITION TO DEFENDANTS SPECIALIZED LOAN SERVICING LLC, TOWD POINT MORTGAGE TRUST 2020-1, TOWD POINT MASTER FUNDING TRUST 2019-PM7, U.S. BANK N.A. AS INDENTURED TRUSTEE AND AS TRUSTEE REPLY IN SUPPORT OF THE MOTION TO DISMISS DOCKET # 109 PLAINTIFFS REPLY OPPOSITION</i> filed by Plaintiff Dee |

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| | | Anetionette Deville. (Deville, Frank) (Entered: 08/17/2020) |
| 08/18/2020 | <u>113</u> | SUPPLEMENT <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE CORRECTED PROOF OF SERVICE FOR PLAINTIFFS RESPONSE IN OPPOSITION TO DEFENDANTS WELLS FARGO BANK N.A REPLY TO MOTION TO DISMISS FIRST AMENDED COMPLAINT DOCKET # 111 PLAINTIFFS CORRECTED PROOF OF SERVICE</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/18/2020) |
| 08/18/2020 | <u>114</u> | SUPPLEMENT <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE CORRECTED PROOF OF SERVICE FOR PLAINTIFFS RESPONSE IN OPPOSITION TO DEFENDANTS: SPECIALIZED LOAN LLC, TOWD POINT MASTER FUNDING TRUST 2019-PM7, TOWD POINT MORTGAGE TRUST 2020-1, US BANK N.A AS INDENTURED TRUSTEE AND AS TRUSTEE DOCKET # 112 PLAINTIFFS CORRECTED PROOF OF SERVICE</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/18/2020) |
| 08/18/2020 | <u>115</u> | SUPPLEMENT <i>PLAINTIFFS FRANK DEVILLE AND DEE DEVILLE CORRECTED PROOF OF SERVICE FOR PLAINTIFFS RESPONSE IN OPPOSITION TO DEFENDANTS BANK OF AMERICA N.A REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS FIRST AMENDED COMPLAINT DOCKET # 110 PLAINTIFFS CORRECTED PROOF OF SERVICE</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 08/18/2020) |
| 08/28/2020 | <u>116</u> | First NOTICE OF MOTION AND MOTION to Amend Complaint filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville. Motion set for hearing on 8/31/2020 at 09:00 AM before Judge Jesus G. Bernal. (Deville, Frank) (Entered: 08/28/2020) |
| 08/28/2020 | <u>117</u> | SCHEDULING NOTICE by Judge Jesus G. Bernal. The Motions to Dismiss (Dkt. Nos. <u>77</u> , <u>54</u> , <u>68</u>), and Joinder (Dkt. No. <u>80</u>) and Motion to consolidate (Dkt. No. <u>59</u>) are hereby continued to 9/14/2020, at 9:00 a.m. Motions set for hearing on 9/14/2020 at 09:00 AM before Judge Jesus G. Bernal. IT IS SO ORDERED.THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (mga) TEXT ONLY ENTRY (Entered: 08/28/2020) |
| 08/28/2020 | <u>118</u> | Order by Judge Jesus G. Bernal. The motion for leave to amend (Dkt. No. <u>116</u>) is hereby STRICKEN. The motion is untimely pursuant to Local Rule 6-1. IT IS SO ORDERED. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (mga) TEXT ONLY ENTRY (Entered: 08/28/2020) |
| 08/31/2020 | <u>119</u> | First EX PARTE APPLICATION for Pretrial Conference <i>Request for Status Conference</i> filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville. (Attachments: # <u>1</u> Proposed Order for Request for status conference) (Deville, Frank) (Entered: 08/31/2020) |
| 09/05/2020 | <u>120</u> | JOINT REPORT Rule 26(f) Discovery Plan <i>filed by Plaintiffs Frank Deville and Dee Deville</i> ; estimated length of trial 5 days, filed by Plaintiff Dee Anetionette Deville.. (Attachments: # <u>1</u> Proposed Order [proposed] scheduling order)(Deville, Frank) (Entered: 09/05/2020) |
| 09/05/2020 | <u>121</u> | REQUEST for ADR Procedure No. 1 filed. Parties request to Appear Before Magistrate Judge for settlement proceedings. Filed by Plaintiff Dee Anetionette Deville. (Attachments: # <u>1</u> Proposed Order ORDER/REFERRAL TO ADR)(Deville, Frank) (Entered: 09/05/2020) |
| 09/05/2020 | <u>122</u> | JOINT REPORT Rule 26(f) Discovery Plan <i>First Amended Joint Report Rule 26(f) filed by plaintiffs Frank Deville and Dee Deville</i> ; estimated length of trial 5 Days, filed by Plaintiff Dee Anetionette Deville.. (Attachments: # <u>1</u> Supplement CERTIFICATE OF SERVICE, # <u>2</u> Proposed Order [PROPOSED] SCHEDULING ORDER)(Deville, Frank) (Entered: 09/05/2020) |
| 09/05/2020 | <u>123</u> | SUPPLEMENT to Joint Report Rule 26(f) Discovery Plan, <u>122</u> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 09/05/2020) |
| 09/08/2020 | <u>124</u> | Corrected NOTICE OF MOTION AND MOTION to Reschedule Motion to Alter Judgement <i>Plaintiffs in error scheduled the wrong date for 9/7/2020 docket # 88 Alter Judgement RE: Transferring Case purs GO 19-03 (CV-34) DOCKET # 13, docket # 60, was the first order made but was denied without prejudice in the order to allow the plaintiffs to receive relief. Plaintiffs scheduled the hearing with the magistrate judge instead of the district judge. Plaintiffs have</i> |

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| | | <i>rescheduled due to error to docket # 88 which have a incorrect hearing date. The new hearing is scheduled on 10/19/2020 Plaintiffs have corrected the hearing date with this Motion. filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville. Motion set for hearing on 10/19/2020 at 09:00 AM before Judge Jesus G. Bernal. (Attachments: # <u>1</u> Supplement Notice of Motion to Alter Judgement, # <u>2</u> Supplement Certificate Service, # <u>3</u> Proposed Order [Proposed]Order to Alter Judgement) (Deville, Frank) (Entered: 09/08/2020)</i> |
| 09/09/2020 | <u>125</u> | MINUTES (IN CHAMBERS) by Judge Jesus G. Bernal: ORDER GRANTING Bank of America, Specialized Loan Servicing, LLC, and Wells Fargos Motions to Dismiss <u>54</u> , <u>68</u> , <u>77</u> ; and (2) VACATING the September 14, 2020 Hearing. Plaintiffs shall file an amended complaint, if any, no later than September 25, 2020, remedying the deficiencies discussed above. Plaintiffs' amended complaint should be brief, Fed. R. Civ. P. 8(a), but must state what each named defendant did that led to the deprivation of Plaintiffs rights. See Iqbal, 556 U.S. at 678. (lc) (Entered: 09/09/2020) |
| 09/11/2020 | <u>126</u> | MINUTES (IN CHAMBERS) by Judge Jesus G. Bernal: ORDER (1) DENYING Plaintiffs Request for Order to Transfer <u>26</u> ; (2) DENYING Plaintiffs Motion for Consolidation <u>59</u> ; and (3) DENYING AS MOOT Motion to Alter Judgment <u>88</u> . (lc) (Entered: 09/11/2020) |
| 09/25/2020 | <u>127</u> | THIRD AMENDED COMPLAINT against Defendants' All Plaintiffs amending Amended Complaint/Petition <u>18</u> , filed by Plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville (Attachments: # <u>1</u> Supplement attached exhibit Sub volume #1 for Third Amended Complaint, # <u>2</u> Supplement attached exhibit Sub volume #2 for Third Amended Complaint)(Deville, Frank) (Entered: 09/25/2020) |
| 09/26/2020 | <u>128</u> | CERTIFICATE OF SERVICE filed by Plaintiffs Frank Deville and Dee Deville: CORRECTED CERTIFICATE OF SERVICE Dee Anetionette Deville, re Amended Complaint/Petition, <u>127</u> served on 9/25/2020. (Deville, Dee Anetionette) (Entered: 09/26/2020) |
| 09/28/2020 | <u>129</u> | MEMORANDUM in Opposition to Corrected NOTICE OF MOTION AND MOTION to Reschedule Motion to Alter Judgement <i>Plaintiffs in error scheduled the wrong date for 9/7/2020 docket # 88 Alter Judgement RE: Transferring Case purs GO 19-03 (CV-34) DOCKET # <u>13</u> , docket #[60 <u>124</u> filed by Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U S Bank National Association, U.S. Bank National Association, U.S. Bank National Association. (Attorney Michael W Stoltzman, Jr added to party Specialized Loan Servicing LLC(pty:dft), Attorney Michael W Stoltzman, Jr added to party Towd Point Master Funding Trust 2019-PM7(pty:dft), Attorney Michael W Stoltzman, Jr added to party Towd Point Mortgage Trust 2020-1(pty:dft), Attorney Michael W Stoltzman, Jr added to party U S Bank National Association(pty:dft), Attorney Michael W Stoltzman, Jr added to party U.S. Bank National Association(pty:dft), Attorney Michael W Stoltzman, Jr added to party U.S. Bank National Association(pty:dft))(Stoltzman, Michael) (Entered: 09/28/2020)</i> |
| 09/29/2020 | <u>130</u> | JOINDER in Corrected NOTICE OF MOTION AND MOTION to Reschedule Motion to Alter Judgement <i>Plaintiffs in error scheduled the wrong date for 9/7/2020 docket # 88 Alter Judgement RE: Transferring Case purs GO 19-03 (CV-34) DOCKET # <u>13</u> , docket #[60 <u>124</u> filed by Defendant Wells Fargo Bank N.A.. (Barasch, Adam) (Entered: 09/29/2020)</i> |
| 09/29/2020 | <u>131</u> | OPPOSITION filed by Plaintiff Dee Anetionette Deville. (Attachments: # <u>1</u> Proposed Order Plaintiffs Frank Deville and Dee Deville opposition to defendants delayed & untimely response to plaintiffs motion to alter judgement [proposed] order to strike defendants and joinders untimely motion docket # <u>129</u> & <u>130</u>)(Deville, Frank) (Entered: 09/29/2020) |
| 09/29/2020 | | (Deville, Frank) (Entered: 09/29/2020) |
| 09/30/2020 | <u>132</u> | NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Plaintiffs Frank Deville and Dee Deville Notice of Appeal Dee Anetionette Deville. Appeal of Order on Motion to Consolidate Cases, Order on Motion to Alter Judgment, Order on Motion for Order <u>126</u> . (Appeal fee of \$505 paid.) (Deville, Frank) (Entered: 09/30/2020) |

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| 09/30/2020 | | APPEAL FEE PAID: re Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> as to Plaintiff Dee Anetionette Deville; Receipt Number: SA016789 in the amount of \$505. (jgu) (Entered: 09/30/2020) |
| 09/30/2020 | <u>133</u> | First EX PARTE APPLICATION to Stay Case <i>pending appeal docket # 132</i> filed by Plaintiffs Frank Deville and Dee Deville request for stay pending appeal Dee Anetionette Deville. (Attachments: # <u>1</u> Proposed Order stay request for pending Appeal) (Deville, Frank) (Entered: 09/30/2020) |
| 10/05/2020 | <u>134</u> | MEMORANDUM of Points and Authorities in Opposition <i>TO EX PARTE APPLICATION FOR STAY OF ORDER OR JUDGMENT</i> Re: First EX PARTE APPLICATION to Stay Case <i>pending appeal docket # 132 133</i> (Stoltzman, Michael) (Entered: 10/05/2020) |
| 10/05/2020 | <u>135</u> | AMENDED NOTICE OF APPEAL to 9th CIRCUIT filed by plaintiffs Dee Anetionette Deville, Frank Deville. Amending Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> Filed On: 9/30/20; Entered On: 9/30/20. (mat) (Entered: 10/06/2020) |
| 10/05/2020 | <u>136</u> | STATEMENT OF THE ISSUES FOR NOTICE OF APPEAL, Additional Documents filed; Declaration of Plaintiff re: Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> . (mat) (Entered: 10/06/2020) |
| 10/05/2020 | <u>137</u> | DECLARATION OF Frank Deville and Dee Devill for Service of Notice of Appeal and Accompany Documents filed by plaintiffs Dee Anetionette Deville, Frank Deville, re Appeal Remark <u>136</u> , Amended Appeal to 9th Circuit Court of Appeals <u>135</u> served on 10/5/20. (mat) (Entered: 10/06/2020) |
| 10/05/2020 | <u>151</u> | DESIGNATION of TRANSCRIPT on Appeal by plaintiff Frank Deville re <u>135</u> . (mat) (Entered: 10/08/2020) |
| 10/06/2020 | <u>138</u> | JOINDER in First EX PARTE APPLICATION to Stay Case <i>pending appeal docket # 132 133</i> <i>JOINDER TO THE OPPOSITION TO EX PARTE APPLICATION FOR STAY OF ORDER OR JUDGMENT</i> filed by Defendant Wells Fargo Bank N.A.. (Barasch, Adam) (Entered: 10/06/2020) |
| 10/06/2020 | <u>141</u> | AMENDED NOTICE OF APPEAL to 9th CIRCUIT filed by Plaintiffs Dee Anetionette Deville, Frank Deville. Amending Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> Filed On: 9/30/2020; Entered On: 9/30/2020. (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>142</u> | PROOF OF SERVICE FOR <u>141</u> NOTICE OF APPEAL WITH ATTACHED: 1. JUDGMENT OR ORDER 2. FORM No. 6 filed by Plaintiffs Dee Anetionette Deville, Frank Deville served on 10/2/2020. (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>143</u> | REPRESENTATION STATEMENT re Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> . (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>144</u> | NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 20-56030 assigned to Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> as to plaintiff Dee Anetionette Deville, Frank Deville. (es) (Entered: 10/07/2020) |
| 10/06/2020 | <u>145</u> | PROOF OF SERVICE filed by Plaintiffs Dee Anetionette Deville, Frank Deville, re Representation Statement <u>143</u> served on 10/2/2020. (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>146</u> | DESIGNATION of Record on Appeal by Plaintiffs Dee Anetionette Deville, Frank Deville re <u>141</u> , <u>132</u> (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>147</u> | DESIGNATION of Record on Appeal by Plaintiffs Dee Anetionette Deville, Frank Deville re <u>141</u> , <u>132</u> (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>148</u> | DESIGNATION of Record on Appeal by Plaintiffs Dee Anetionette Deville, Frank Deville re <u>141</u> , <u>132</u> (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>149</u> | DESIGNATION of Record on Appeal by Plaintiffs Dee Anetionette Deville, Frank Deville re <u>141</u> , <u>132</u> (car) (Entered: 10/07/2020) |

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| 10/06/2020 | <u>150</u> | PROOF OF SERVICE filed by Plaintiffs Dee Anetionette Deville, Frank Deville, re Designation of Record on Appeal <u>146</u> , Designation of Record on Appeal <u>147</u> , Designation of Record on Appeal <u>149</u> , Designation of Record on Appeal <u>148</u> served on 10/2/2020. (car) (Entered: 10/07/2020) |
| 10/06/2020 | <u>152</u> | MEDIATION QUESTIONNAIRE re: Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> . (mat) (Entered: 10/08/2020) |
| 10/06/2020 | <u>153</u> | PROOF OF SERVICE filed by plaintiff Frank Deville, re Mediation Questionnaire <u>152</u> served on 10/2/20. (mat) (Entered: 10/08/2020) |
| 10/07/2020 | <u>139</u> | REPLY in opposition by plaintiffs Frank Deville and Dee Deville to Defendants Opposition to Ex Parte Application for Stay of Order or judgement docket # <u>134</u> and any other joint Joinder and joint joinder docket # <u>138</u> to plaintiffs Ex Parte Application to stay a case docket # <u>133</u> filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 10/07/2020) |
| 10/07/2020 | <u>140</u> | DESIGNATION of Record on Appeal by Plaintiffs Frank Deville and Dee Deville filed a Transcript Designation form Dee Anetionette Deville re <u>132</u> , <u>135</u> (Deville, Frank) (Entered: 10/07/2020) |
| 10/09/2020 | <u>154</u> | NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' Second Amended Complaint filed by Defendant Bank of America, N.A.. Motion set for hearing on 11/9/2020 at 09:00 AM before Judge Jesus G. Bernal. (Campbell, John) (Entered: 10/09/2020) |
| 10/09/2020 | <u>155</u> | NOTICE OF MOTION AND MOTION to Dismiss Third Amended Complaint filed by Defendant Wells Fargo Bank N.A.. Motion set for hearing on 11/9/2020 at 09:00 AM before Judge Jesus G. Bernal. (Attachments: # <u>1</u> Proposed Order) (Barasch, Adam) (Entered: 10/09/2020) |
| 10/09/2020 | <u>156</u> | REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION to Dismiss Third Amended Complaint <u>155</u> filed by Defendant Wells Fargo Bank N.A.. (Attachments: # <u>1</u> Exhibit 1-8 to Request for Judicial Notice)(Barasch, Adam) (Entered: 10/09/2020) |
| 10/09/2020 | <u>157</u> | PROOF OF SERVICE filed by Defendant Wells Fargo Bank N.A., re NOTICE OF MOTION AND MOTION to Dismiss Third Amended Complaint <u>155</u> , Request for Judicial Notice <u>156</u> served on October 9, 2020. (Barasch, Adam) (Entered: 10/09/2020) |
| 10/09/2020 | <u>158</u> | DECLARATION of Frank Deville and Dee Deville concerning multiply copies of the same document filed in the case. re Designation of Record on Appeal <u>146</u> , Designation of Record on Appeal <u>147</u> , Designation of Record on Appeal <u>149</u> , Designation of Record on Appeal <u>151</u> , Designation of Record on Appeal <u>140</u> , Designation of Record on Appeal <u>148</u> are repeated documents filed in the case. The documents were courtesy copies and were not meant to be filed multiply times in the case. There are only suppose to be one filed in the case. Other documents are repeatedly filed in the case not by the plaintiffs filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 10/09/2020) |
| 10/13/2020 | <u>159</u> | NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's Third Amended Complaint filed by defendant Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U.S. Bank National Association(as servicing agent for Towd Point Master Funding Trust 2019-PM7), U.S. Bank National Association(as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7,). Motion set for hearing on 11/16/2020 at 09:00 AM before Judge Jesus G. Bernal. (Stoltzman, Michael) (Entered: 10/13/2020) |
| 10/13/2020 | <u>160</u> | REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's Third Amended Complaint <u>159</u> filed by Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U.S. Bank National Association, U.S. Bank National Association. (Stoltzman, Michael) (Entered: 10/13/2020) |
| 10/13/2020 | <u>161</u> | NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' Second Amended Complaint <u>154</u> . The following error(s) was/were found: Proposed Document was not submitted as separate attachment. In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (twdb) |

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| | | (Entered: 10/13/2020) |
| 10/14/2020 | <u>162</u> | NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's Third Amended Complaint <u>159</u> . The following error(s) was/were found: Proposed Document was not submitted as separate attachment. In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (twdb) (Entered: 10/14/2020) |
| 10/15/2020 | <u>163</u> | MINUTES (IN CHAMBERS) by Judge Jesus G. Bernal: Order (1) DENYING Plaintiffs Corrected Motion Seeking Relief from Judgment (Dkt. No. <u>124</u>); (2) DENYING Ex Parte Application for Stay Pending Appeal (Dkt. No. <u>133</u>); and (3) VACATING October 19, 2020 Hearing. SEE DOCUMENT FOR FURTHER INFORMATION. (twdb) (Entered: 10/16/2020) |
| 10/15/2020 | <u>164</u> | ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> filed by Dee Anetionette Deville. CCA # 20-56030. All pending motions are denied as moot. DISMISSED. (twdb) (Entered: 10/16/2020) |
| 10/19/2020 | <u>165</u> | OPPOSITION to NOTICE OF MOTION AND MOTION to Dismiss Third Amended Complaint <u>155</u> Plaintiffs Frank Deville and Dee Deville Notice of Motion in Opposition to Wells Fargo N.A dismissal to the Third amended Complaint filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 10/19/2020) |
| 10/19/2020 | <u>166</u> | OPPOSITION to NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' Second Amended Complaint <u>154</u> Plaintiffs Frank Deville and Dee Deville Opposition to Defendant Bank of America N.A Dismissal Motion to second amended Complaint but should be for Third Amended Complaint filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 10/19/2020) |
| 10/19/2020 | <u>167</u> | FOURTH AMENDED COMPLAINT AMENDED COMPLAINT against Defendants All Plaintiffs amending Amended Complaint/Petition, <u>127</u> , filed by plaintiffs Frank Deville and Dee Deville Dee Anetionette Deville (Attachments: # <u>1</u> Exhibit SUB VOL 1, # <u>2</u> Exhibit SUB VOL 2)(Deville, Dee Anetionette) (Entered: 10/19/2020) |
| 10/19/2020 | <u>168</u> | OBJECTIONS to Request for Judicial Notice <u>156</u> filed by Plaintiffs Dee Anetionette Deville, Frank Deville. (Deville, Frank) (Entered: 10/19/2020) |
| 10/21/2020 | <u>169</u> | NOTICE TO FILER OF DEFICIENCIES in Electronically Filed Documents RE: Amended Complaint/Petition, <u>167</u> . The following error(s) was/were found: Leave of court required for filing. In response to this notice, the Court may: (1) order an amended or correct document to be filed; (2) order the document stricken; or (3) take other action as the Court deems appropriate. You need not take any action in response to this notice unless and until the Court directs you to do so. (twdb) (Entered: 10/21/2020) |
| 10/22/2020 | <u>170</u> | Second NOTICE OF MOTION AND MOTION for Leave to file an AMENDED COMPLAINT <i>FOURTH AMENDED COMPLAINT</i> filed by Plaintiffs Frank Deville and Dee Deville file a motion to leave to amend complaint Dee Anetionette Deville. Motion set for hearing on 12/7/2020 at 09:00 AM before Judge Jesus G. Bernal. (Attachments: # <u>1</u> Exhibit sub-vol 1, # <u>2</u> Exhibit sub-vol 2, # <u>3</u> Proposed Order [proposed]order for leave to amend complaint) (Deville, Frank) (Entered: 10/22/2020) |
| 10/22/2020 | <u>171</u> | OPPOSITION TO DEFENDANTS SPECIALIZED LOAN SERVICING LLC & US BANK N.A AS INDENTURED TRUSTEE AND AS TRUSTEE Opposition to docket # <u>159</u> re: NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's Third Amended Complaint <u>159</u> Notice of motion for opposition filed by Frank Deville and Dee Deville filed by Plaintiff Dee Anetionette Deville. (Deville, Frank) (Entered: 10/22/2020) |
| 10/23/2020 | <u>172</u> | REPLY in support of NOTICE OF MOTION AND MOTION to Dismiss Third Amended Complaint <u>155</u> filed by Defendant Wells Fargo Bank N.A.. (Barasch, Adam) (Entered: 10/23/2020) |

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| 10/23/2020 | <u>173</u> | SUPPLEMENT <i>Plaintiffs Frank Deville and Dee Deville OPPOSITION FOR defendants JUDICIAL NOTICE IN SUPPORT TO THEIR MOTION TO DISMISS THE TAC DKT # 160</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 10/23/2020) |
| 10/26/2020 | <u>174</u> | REPLY In Support Of NOTICE OF MOTION AND MOTION to Dismiss Plaintiffs' Second Amended Complaint <u>154</u> filed by Defendant Bank of America, N.A.. (Campbell, John) (Entered: 10/26/2020) |
| 10/26/2020 | <u>175</u> | PROOF OF SERVICE filed by Defendant Wells Fargo Bank N.A., re Reply (Motion related) <u>172 Amended Proof of Service</u> served on 10/23/20. (Barasch, Adam) (Entered: 10/26/2020) |
| 10/26/2020 | <u>176</u> | REPLY opposition <i>plaintiffs opposition to docket 172</i> filed by Plaintiff Dee Anetionette Deville. (Attachments: # <u>1</u> Supplement certificate of service)(Deville, Dee Anetionette) (Entered: 10/27/2020) |
| 10/27/2020 | <u>177</u> | REPLY opposition <i>plaintiffs reply opposition to defendants reply to plaintiffs opposition to the dismissal to TAC docket # 174</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 10/27/2020) |
| 10/30/2020 | <u>178</u> | RESPONSE IN SUPPORT of NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's Third Amended Complaint <u>159</u> filed by Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U S Bank National Association. (Stoltzman, Michael) (Entered: 10/30/2020) |
| 10/30/2020 | <u>179</u> | REPLY RE: PLAINTIFFS OBJECTIONS TO DEFENDANTS REQUEST FOR JUDICIAL NOTICE NOTICE OF MOTION AND MOTION to Dismiss Plaintiff's Third Amended Complaint <u>159</u> filed by Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U S Bank National Association. (Stoltzman, Michael) (Entered: 10/30/2020) |
| 10/30/2020 | <u>180</u> | REPLY Reply Opposition to motion <i>plaintiffs reply opposition to defendants Specialized Loan Servicing LLC, U.S Bank N.A as indentured trustee and as trustee reply opposition to plaintiff response DKT # 178</i> filed by Plaintiff Dee Anetionette Deville. (Attachments: # <u>1</u> Supplement Certificate of service)(Deville, Dee Anetionette) (Entered: 10/30/2020) |
| 10/30/2020 | <u>181</u> | REPLY REPLY OPPOSITION TO DEFENDANTS JN FILED BY PLAINTIFFS TO DEFENDANTS REPLY DOCKET # <u>179</u> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 10/30/2020) |
| 11/06/2020 | <u>182</u> | SCHEDULING NOTICE by Judge Jesus G. Bernal: The hearing on the MOTION to Dismiss Plaintiffs' Second Amended Complaint <u>154</u> , and MOTION to Dismiss Third Amended Complaint <u>155</u> is continued from 11/9/2020 to 11/16/2020 at 09:00 AM before Judge Jesus G. Bernal. IT IS SO ORDERED. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (mga) TEXT ONLY ENTRY (Entered: 11/06/2020) |
| 11/13/2020 | <u>183</u> | SCHEDULING NOTICE by Judge Jesus G. Bernal. The hearing on the MOTIONS to Dismiss (Docket Nos. <u>154</u> , <u>155</u> , <u>159</u>), are continued from 11/16/2020 to 11/23/2020 at 09:00 AM before Judge Jesus G. Bernal. IT IS SO ORDERED. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (mga) TEXT ONLY ENTRY (Entered: 11/13/2020) |
| 11/16/2020 | <u>184</u> | Opposition in opposition to re: Second NOTICE OF MOTION AND MOTION for Leave to file an AMENDED COMPLAINT <i>FOURTH AMENDED COMPLAINT 170</i> filed by Defendants Specialized Loan Servicing LLC, Towd Point Master Funding Trust 2019-PM7, Towd Point Mortgage Trust 2020-1, U S Bank National Association, U.S. Bank National Association. (Stoltzman, Michael) (Entered: 11/16/2020) |
| 11/16/2020 | <u>185</u> | REPLY OPPOSITION TO DEFENDANTS OBJECTION DOCKET # <u>184</u> TO PLAINTIFFS LEAVE TO AMEND COMPLAINT filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 11/16/2020) |

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| 11/17/2020 | <u>186</u> | Opposition to re: Second NOTICE OF MOTION AND MOTION for Leave to file an AMENDED COMPLAINT <i>FOURTH AMENDED COMPLAINT</i> <u>170</u> filed by Defendant Bank of America, N.A.. (Campbell, John) (Entered: 11/17/2020) |
| 11/17/2020 | <u>187</u> | JOINDER filed by Defendant Wells Fargo Bank N.A. joining in Objection/Opposition (Motion related), <u>184</u> . (Barasch, Adam) (Entered: 11/17/2020) |
| 11/17/2020 | <u>188</u> | REPLY opposition to <i>Defendant Bank of America untimely response docket # 186 and joinder; to plaintiffs leave to amend complaint</i> filed by Plaintiff Dee Anetionette Deville. (Deville, Dee Anetionette) (Entered: 11/17/2020) |
| 11/20/2020 | <u>189</u> | MINUTES (IN CHAMBERS) by Judge Jesus G. Bernal: Order (1) GRANTING Bank of America, Specialized Loan Servicing, LLC, and Wells Fargos Motions to Dismiss (Dkt. Nos. <u>154</u> , <u>155</u> , <u>159</u>); (2) DENYING Plaintiffs Motion for Leave to File Fourth Amended Complaint as MOOT (Dkt. No. <u>170</u>); and (3) VACATING the November 23, 2020 Hearing. SEE DOCUMENT FOR FURTHER INFORMATION. (MD JS-6. Case Terminated) (twdb) (Entered: 11/20/2020) |
| 11/23/2020 | <u>190</u> | First EX PARTE APPLICATION to Alter Judgment re Order on Motion to Dismiss,,,,, Order on Motion for Leave to File Document, <u>189</u> . <i>for Reconsideration of order dated 11/20/2020 filed by plaintiff Frank Deville and</i> filed by plaintiffs Dee Anetionette Deville. (Attachments: # <u>1</u> Supplement notice, # <u>2</u> Proposed Order) (Deville, Dee Anetionette) (Entered: 11/23/2020) |
| 12/02/2020 | <u>191</u> | ORDER by Judge Jesus G. Bernal: Denying <u>190</u> EX PARTE APPLICATION. (twdb) (Entered: 12/03/2020) |
| 12/15/2020 | <u>192</u> | FINANCIAL ENTRY: Received \$ 505.00 into the registry of the Court from Dee Deville. Receipt number SA016961. (eva) (Entered: 12/15/2020) |
| 12/15/2020 | <u>193</u> | NOTICE OF APPEAL to the 9th CCA filed by plaintiffs Dee Anetionette Deville, Frank Deville. Appeal of Order on Motion to Dismiss, Order on Motion for Leave to File Document, <u>189</u> Filed On: 11/20/20; Entered On: 11/20/20; Filing fee \$505 paid, receipt number SA016961. (mat) (Entered: 12/15/2020) |
| 12/15/2020 | <u>194</u> | REPRESENTATION STATEMENT re Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> . (mat) (Entered: 12/15/2020) |
| 12/15/2020 | <u>195</u> | PROOF OF SERVICE filed by plaintiffs Dee Anetionette Deville, Frank Deville, re Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> served on 12/12/20. (mat) (Entered: 12/15/2020) |
| 12/15/2020 | <u>196</u> | PROOF OF SERVICE filed by plaintiffs Dee Anetionette Deville, Frank Deville, re Representation Statement <u>194</u> served on 12/12/20. (mat) (Entered: 12/15/2020) |
| 12/16/2020 | <u>197</u> | DESIGNATION of Record on Appeal by Plaintiffs Frank Deville & Dee Deville Dee Anetionette Deville (Attachments: # <u>1</u> Supplement Form #7 Mediation Questionnaire, # <u>2</u> Supplement Notice & Statement Concerning Transcript designation form, # <u>3</u> Supplement Statement of the issues for notice of Appeal with attached certification that no transcript will be ordered, # <u>4</u> Exhibit exhibits for statement of the issues, # <u>5</u> Exhibit exhibits for statement of the issues)(Deville, Dee Anetionette) (Entered: 12/16/2020) |
| 12/16/2020 | <u>198</u> | FIRST AMENDED NOTICE OF APPEAL to 9th CIRCUIT filed by plaintiffs Frank Deville & Dee Deville Dee Anetionette Deville. Amending Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> Filed On: 12/15/2020; Entered On: 12/15/2020; (Attachments: # <u>1</u> Supplement Amended Proof of Service)(Deville, Dee Anetionette) (Entered: 12/16/2020) |
| 12/16/2020 | <u>199</u> | REPRESENTATION STATEMENT re Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> . (Deville, Dee Anetionette) (Entered: 12/16/2020) |
| 12/16/2020 | <u>200</u> | NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 20-56328 assigned to Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> as to Plaintiffs Dee Anetionette Deville, Frank Deville. (car) (Entered: 12/18/2020) |

| | | |
|------------|------------|--|
| 01/11/2021 | <u>201</u> | AMENDED NOTICE OF APPEAL to 9th CIRCUIT filed by plaintiffs Dee Anetionette Deville, Frank Deville. Amending Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> Filed On: 9/30/20; Entered On: 9/30/20. (mat) (Entered: 01/13/2021) |
| 01/11/2021 | <u>202</u> | PROOF OF SERVICE filed by plaintiffs Dee Anetionette Deville, Frank Deville, re Amended Appeal to 9th Circuit Court of Appeals <u>201</u> served on 12/16/20. (mat) (Entered: 01/13/2021) |
| 02/17/2021 | <u>203</u> | ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> filed by Dee Anetionette Deville. CCA # 20-56030. Appellants appeal from the final order entered in the district court on November 20, 2020 is proceeding in this court as appeal No. 20-56328. No further filings will be entertained in this closed case. (twdb) (Entered: 02/18/2021) |
| 02/25/2021 | <u>204</u> | MANDATE of Ninth Circuit Court of Appeals filed re: USCA Memorandum/Opinion/Order <u>164</u> , Notice of Appeal to 9th Circuit Court of Appeals, <u>132</u> , CCA # 20-56030. The judgment of this Court, entered October 15, 2020, takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. [The appeal is dismissed per USCA Order 164.] (car) (Entered: 02/26/2021) |
| 04/16/2021 | <u>205</u> | ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> filed by Dee Anetionette Deville, Frank Deville. CCA # 20-56328. Appellants' emergency motion to conclude proceedings in related appeal No. 20-56030 is denied as unnecessary. The mandate issued in that appeal on February 25, 2021. Appellants' emergency motion for protection from harassment is denied.(mat) (Entered: 04/19/2021) |
| 07/22/2021 | <u>206</u> | ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> filed by Dee Anetionette Deville, Frank Deville. CCA # 20-56328. (twdb) (Entered: 07/23/2021) |
| 01/27/2022 | <u>207</u> | MEMORANDUM from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> filed by Dee Anetionette Deville, Frank Deville. CCA # 20-56328. AFFIRMED. (twdb) (Entered: 01/28/2022) |
| 04/26/2022 | <u>208</u> | MANDATE of Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>193</u> , USCA Memorandum/Opinion/Order <u>207</u> , CCA # 20-56328. The judgment of this Court, entered January 27, 2022, takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. (car) (Entered: 04/26/2022) |

| PACER Service Center | | | |
|----------------------|----------------|------------------|---|
| Transaction Receipt | | | |
| 05/24/2022 06:38:06 | | | |
| PACER Login: | deedeville1234 | Client Code: | |
| Description: | Docket Report | Search Criteria: | 2:20-cv-05576-JGB-E End date: 5/24/2022 |
| Billable Pages: | 21 | Cost: | 2.10 |

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 20-56328 Docketed: 12/16/2020
 Nature of Suit: 3371 Truth in Lending
 Frank Deville, et al v. Specialized Loan Servicing LLC, et al
 Appeal From: U.S. District Court for Central California, Los Angeles
 Fee Status: Paid

Case Type Information:

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

Originating Court Information:

District: 0973-2 : 2:20-cv-05576-JGB-E
 Trial Judge: Jesus G. Bernal, District Judge
 Date Filed: 06/23/2020
 Date Order/Judgment: 11/20/2020

Date Order/Judgment EOD:
11/20/2020

Date NOA Filed:
12/15/2020

Date Rec'd COA:
12/15/2020

Prior Cases:

20-56030 Date Filed: 10/06/2020 Date Disposed: 10/15/2020 Disposition: Jurisdictional Defects - Judge Order

Current Cases:

None

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Dee Anetionette Deville
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P.O. Box 2042
Glendora, CA 91749

v.

SPECIALIZED LOAN SERVICING LLC, Individually and as
Servicing agent for Towd Point Mortgage trust 2020-1
Defendant - Appellee,

Andrew Jonathan Mase
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[COR NTC Retained]
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BANK OF AMERICA, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7
Defendant - Appellee,

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San Francisco, CA 94111

U.S. BANK, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7
Defendant - Appellee,

Andrew Jonathan Mase
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[COR NTC Retained]
(see above)

Timothy M. Ryan, Esquire, Attorney
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(see above)

Michael W. Stoltzman, Jr.
Direct: 949-263-1800
[COR NTC Retained]
(see above)

DOES, All Persons Unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto; 1-20, inclusive.

Defendant - Appellee,

TOWD POINT MORTGAGE TRUST 2020-1
Defendant - Appellee,

Andrew Jonathan Mase
Direct: 949-263-1800
[COR NTC Retained]
(see above)

Michael W. Stoltzman, Jr.
Direct: 949-263-1800
[COR NTC Retained]
(see above)

TOWD POINT MASTER FUNDING TRUST 2019-PM7
Defendant - Appellee,

Andrew Jonathan Mase
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[COR NTC Retained]
(see above)

Michael W. Stoltzman, Jr.
Direct: 949-263-1800
[COR NTC Retained]
(see above)

FRANK DEVILLE; DEE ANETIONETTE DEVILLE,

Plaintiffs - Appellants,

v.

SPECIALIZED LOAN SERVICING LLC, Individually and as Servicing agent for Towd Point Mortgage trust 2020-1; BANK OF AMERICA, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7; WELLS FARGO BANK, N.A.; U.S. BANK, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7; DOES, All Persons Unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto; 1-20, inclusive; TOWD POINT MORTGAGE TRUST 2020-1; TOWD POINT MASTER FUNDING TRUST 2019-PM7,

Defendants - Appellees.

- 12/16/2020 1 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL AND PRO SE APPELLANTS. SEND
60 pg, 952.7 KB MQ: No. The schedule is set as follows: Appellants Dee Anetionette Deville and Frank Deville opening brief due 02/16/2021. Appellees U.S. Bank, N.A., et al.. answering brief due 03/15/2021. Appellant's optional reply brief is due 21 days after service of the answering brief. [11929601] (JPD) [Entered: 12/16/2020 10:31 AM]
- 12/18/2020 2 Received copy of amended notice of appeal from district court. [11933178] (RR) [Entered: 12/18/2020 02:13
17 pg, 3.59 MB PM]
- 12/19/2020 3 Filed (ECF) Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Mediation Questionnaire. Date of
63 pg, 13.63 MB service: 12/19/2020. [11933771] [20-56328] (Deville, Dee) [Entered: 12/19/2020 04:34 PM]
- 12/19/2020 4 The Mediation Questionnaire for this case was filed on 12/19/2020.
To submit pertinent **confidential** information directly to the Circuit Mediators, please use the following [link](#). Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[11933777]. [20-56328] (AD) [Entered: 12/19/2020 06:44 PM]
- 12/21/2020 5 Filed (ECF) notice of appearance of Kerry W. Franich (Severson and Werson 19100 Von Karman Ave.,
#700, Irvine, CA 92612) for Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 12/21/2020. (Party was previously proceeding with counsel.) [11934514] [20-56328] (Franich, Kerry) [Entered: 12/21/2020 10:07 AM]
- 12/21/2020 6 Filed (ECF) notice of appearance of Jan T. Chilton (Severson and Werson, One Embarcadero Center., 26th
Fl., San Francisco, CA 94111) for Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 12/21/2020. (Party was previously proceeding with counsel.) [11934529] [20-56328] (Chilton, Jan) [Entered: 12/21/2020 10:14 AM]
- 12/21/2020 7 Added Attorney(s) Jan T. Chilton, Kerry W. Franich for party(s) Appellee Bank of America, N.A. Appellee
Wells Fargo Bank, N.A., in case 20-56328. [11934642] (RR) [Entered: 12/21/2020 10:48 AM]
- 12/22/2020 8 Filed Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Mediation Questionnaire. [11938792]
6 pg, 326.39 KB (RR) [Entered: 12/23/2020 04:14 PM]
- 12/22/2020 9 Received Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville notice regarding notice and
731 pg, 41.2 MB statement concering RTs form. [11938849] (RR) [Entered: 12/23/2020 04:38 PM]
- 12/23/2020 10 The Mediation Questionnaire for this case was filed on 12/22/2020.
To submit pertinent **confidential** information directly to the Circuit Mediators, please use the following [link](#). Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[11941592]. [20-56328] (AD) [Entered: 12/23/2020 06:44 PM]
- 12/23/2020 11 Filed (ECF) Appellant Mrs. Dee Anetionette Deville Correspondence: Notice of errata motion because the
10 pg, 1.46 MB appellants inadvertently failed to attach form 6 to form 1.. Date of service: 12/23/2020 [11944666] [20-56328] (Deville, Dee) [Entered: 12/23/2020 09:43 PM]
- 01/04/2021 12 COURT DELETED INCORRECT ENTRY. Notice about deletion sent to case participants registered for
electronic filing. Correct Entry: [\[13\]](#). Original Text: Filed (ECF) Appellant Mr. Frank Deville Correspondence: Appellants Frank Deville & Dee Deville Notice, notifying the Court that due to logistical issues related to the COVID-19 Virus, appellants requires a 60-day extension of time to file Opening Brief, which is currently due February 16, 2021.. Date of service: 01/04/2021 [11951473] [20-56328] (Deville, Frank) [Entered: 01/04/2021 03:00 PM]
- 01/04/2021 13 Filed (ECF) Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Motion to extend time to file
8 pg, 1.1 MB Opening brief. Date of service: 01/04/2020. [11952669]--[COURT ENTERED FILING to correct entry [\[12\]](#).] (SLM) [Entered: 01/05/2021 11:31 AM]
- 01/05/2021 14 Filed (ECF) Appellant Mr. Frank Deville Correspondence: Notice of Errata to appellants motion for extension
9 pg, 1.25 MB of time. Date of service: 01/05/2021 [11953623] [20-56328] (Deville, Frank) [Entered: 01/05/2021 05:47 PM]
- 01/19/2021 15 Filed clerk order (Deputy Clerk: SSR): Appellants' motion (Docket Entry Nos. [\[13\]](#) & [\[14\]](#)) for an extension of
1 pg, 104.24 KB time to file the opening brief is granted. The opening brief is due May 17, 2021. The answering brief is due June 16, 2021. The optional reply brief is due within 21 days after service of the answering brief.[11968350] (WL) [Entered: 01/19/2021 03:20 PM]
- 02/26/2021 16 Filed (ECF) Appellant Mrs. Dee Anetionette Deville EMERGENCY Motion for miscellaneous relief
67 pg, 9.75 MB [emergency to conclude proceedings and relief from harassment]. Date of service: 02/26/2021. [12018851] [20-56328] (Deville, Dee) [Entered: 02/26/2021 11:56 PM]
- 04/16/2021 17 Filed order (RICHARD R. CLIFTON and DANIEL A. BRESS) Appellants' emergency motion to conclude
1 pg, 99.39 KB proceedings in related appeal No. 20-56030 (Docket Entry No. [\[16\]](#)) is denied as unnecessary. The mandate issued in that appeal on February 25, 2021. Appellants' emergency motion for protection from harassment

(Docket Entry No. 16) is denied. The existing briefing schedule remains in effect. [12077114] (OC) [Entered: 04/16/2021 11:21 AM]

04/28/2021 18
97 pg, 14.63 MB Filed (ECF) Appellant Mr. Frank Deville petition for panel rehearing and petition for rehearing en banc (from 04/16/2021 opinion). Date of service: 04/28/2021. [12090465] [20-56328] (Deville, Frank) [Entered: 04/28/2021 04:57 PM]

04/28/2021 19
23 pg, 2.91 MB Filed (ECF) Appellant Mr. Frank Deville EMERGENCY Motion to extend time to file Opening brief until 08/30/2021. Date of service: 04/28/2021. [12090502] [20-56328] (Deville, Frank) [Entered: 04/28/2021 05:24 PM]

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 20-56030
Nature of Suit: 3371 Truth in Lending
 Frank Deville, et al v. Specialized Loan Servicing LLC, et al
Appeal From: U.S. District Court for Central California, Los Angeles
Fee Status: Paid

Docketed: 10/06/2020
Termed: 10/15/2020

Case Type Information:

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

Originating Court Information:

District: 0973-2 : 2:20-cv-05576-JGB-E
Trial Judge: Jesus G. Bernal, District Judge
Date Filed: 06/23/2020
Date Order/Judgment: 09/11/2020

Date Order/Judgment EOD: 09/11/2020

Date NOA Filed: 10/05/2020

Date Rec'd COA: 10/06/2020

Prior Cases:

None

Current Cases:

None

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v.

SPECIALIZED LOAN SERVICING LLC, Individually and as
 Servicing agent for Towd Point Mortgage trust 2020-1
 Defendant - Appellee.

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Towd Point Master Funding Trust 2019-PM7
Defendant - Appellee,

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San Francisco, CA 94105

DOES, All Persons Unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto, 1-20, inclusive
Defendant - Appellee;

FRANK DEVILLE; DEE ANETIONETTE DEVILLE,

Plaintiffs - Appellants,

v.

SPECIALIZED LOAN SERVICING LLC, Individually and as Servicing agent for Towd Point Mortgage trust 2020-1; U.S. BANK, N.A., as Indenture Trustee and as servicing agent for Towd Point Master Funding Trust 2019-PM7; BANK OF AMERICA, N.A.; WELLS FARGO BANK, N.A.; DOES, All Persons Unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the complaint adverse to plaintiffs' title, or any cloud on plaintiffs' title thereto; 1-20, inclusive,

Defendants - Appellees.

- 10/06/2020 1 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL AND PRO SE APPELLANTS. SEND MQ: No. The schedule is set as follows: Appellants Dee Deville and Frank Deville opening brief due 12/04/2020. Appellees Bank of America, N.A., Does, Specialized Loan Servicing LLC, U.S. Bank, N.A. and Wells Fargo Bank, N.A. answering brief due 01/04/2021. Appellant's optional reply brief is due 21 days after service of the answering brief. [11849398] (JBS) [Entered: 10/06/2020 02:09 PM]
60 pg, 952.11 KB
- 10/06/2020 5 Filed Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Mediation Questionnaire. . [11853786] (RR) [Entered: 10/09/2020 09:54 AM]
2 pg, 531.77 KB
- 10/06/2020 3 Received Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville notice regarding notice of appeal with attachments. [11851464][COURT UPDATE: Changed Filed Date,--[Edited 10/07/2020 by BY][COURT UPDATE: Changed Filed Date,--[Edited 10/09/2020 by BY] (RR) [Entered: 10/07/2020 04:27 PM]
53 pg, 1.25 MB
- 10/07/2020 2 Received copy of amended notice of appeal from district court. [11850907] (RR) [Entered: 10/07/2020 01:00 PM]
161 pg, 14.62 MB
- 10/07/2020 4 Filed Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville representation statement. (CASE FILES) [11851546] (RR) [Entered: 10/07/2020 05:12 PM]
- 10/09/2020 6 The Mediation Questionnaire for this case was filed on 10/06/2020. To submit pertinent **confidential** information directly to the Circuit Mediators, please use the following [link](#). Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[11854144]. [20-56030] (AD) [Entered: 10/09/2020 12:44 PM]
- 10/09/2020 12 Filed Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville Mediation Questionnaire. Case Closed. [11861051] (RR) [Entered: 10/16/2020 01:21 AM]
160 pg, 11.52 MB
- 10/09/2020 13 Received Appellants Mrs. Dee Anetionette Deville and Mr. Frank Deville notice regarding amended notice of appeal. Case closed. [11861053] (RR) [Entered: 10/16/2020 01:31 AM]
49 pg, 791.79 KB
- 10/13/2020 7 Filed (ECF) Appellant Mrs. Dee Anetionette Deville EMERGENCY Motion to stay lower court action. Date of service: 10/13/2020. [11855334] [20-56030] (Deville, Dee) [Entered: 10/13/2020 01:34 AM]
172 pg, 29.14 MB
- 10/14/2020 8 Filed (ECF) notice of appearance of Kerry W. Franich (Severson & Werson 19100 Von Karman Ave., Suite 700; Irvine CA 92612) for Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 10/14/2020. (Party was previously proceeding with counsel.) [11858615] [20-56030] (Franich, Kerry) [Entered: 10/14/2020 02:10 PM]
- 10/14/2020 9 Filed (ECF) notice of appearance of Jan T. Chilton (Severson & Werson One Embarcadero Center, 26th Fl., San Francisco CA 94111) for Appellees Bank of America, N.A. and Wells Fargo Bank, N.A.. Date of service: 10/14/2020. (Party was previously proceeding with counsel.) [11858641] [20-56030] (Chilton, Jan) [Entered: 10/14/2020 02:21 PM]
- 10/15/2020 10 Added Attorney(s) Jan T. Chilton, Kerry W. Franich for party(s) Appellee Bank of America, N.A. Appellee Wells Fargo Bank, N.A., in case 20-56030. [11859413] (RR) [Entered: 10/15/2020 08:21 AM]
- 10/15/2020 11 Filed order (WILLIAM A. FLETCHER, MARSHA S. BERZON and JAY S. BYBEE) A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable. See 28 U.S.C. § 1291. Consequently, this appeal is dismissed for lack of jurisdiction. All pending motions are denied as moot. DISMISSED. [11860475] (WL) [Entered: 10/15/2020 03:20 PM]
1 pg, 142.2 KB
- 10/16/2020 14 The Mediation Questionnaire for this case was filed on 10/09/2020. To submit pertinent **confidential** information directly to the Circuit Mediators, please use the following [link](#). Confidential submissions may include any information relevant to mediation of the case and settlement potential, including, but not limited to, settlement history, ongoing or potential settlement discussions, non-litigated party related issues, other pending actions, and timing considerations that may impact mediation efforts.[11861062]. [20-56030] (AD) [Entered: 10/16/2020 06:44 AM]
- 10/27/2020 15 Filed (ECF) Appellant Mrs. Dee Anetionette Deville petition for panel rehearing and petition for rehearing en banc (from 10/15/2020 opinion). Date of service: 10/27/2020. [11873719] [20-56030] (Deville, Dee) [Entered: 10/27/2020 09:02 PM]
78 pg, 14.24 MB
- 11/24/2020 16 Filed (ECF) Appellant Mrs. Dee Anetionette Deville EMERGENCY Motion to stay lower court action. Date of service: 11/24/2020. [11904818] [20-56030] (Deville, Dee) [Entered: 11/24/2020 10:22 AM]
210 pg, 31.73 MB
- 11/25/2020 17 Filed (ECF) Appellant Mrs. Dee Anetionette Deville Correspondence: Errata to emergency motion. Date of service: 11/25/2020. [11907166] [20-56030] --[COURT UPDATE: Updated docket text to reflect correct ECF filing type. 11/27/2020 by TYL] (Deville, Dee) [Entered: 11/25/2020 04:32 PM]
25 pg, 2.25 MB
- 01/13/2021 18 Received copy of amended notice of appeal from district court. [11962722] (RR) [Entered: 01/13/2021 03:14 PM]
17 pg, 3.26 MB

| | | |
|------------|---|---|
| 02/17/2021 | <input type="checkbox"/> <u>19</u> 1 pg, 121.13 KB | Filed order (WILLIAM A. FLETCHER, MARSHA S. BERZON and JAY S. BYBEE) The motion for reconsideration en banc (Docket Entry No. [15]) is denied on behalf of the court. See 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11. All other pending motions are denied as moot. Appellants' appeal from the final order entered in the district court on November 20, 2020 is proceeding in this court as appeal No. 20-56328. No further filings will be entertained in this closed case. [12006957] (WL) [Entered: 02/17/2021 02:54 PM] |
| 02/25/2021 | <input type="checkbox"/> <u>20</u> 1 pg, 94.64 KB | MANDATE ISSUED. (WAF, MSB and JSB) [12016295] (NAC) [Entered: 02/25/2021 09:08 AM] |

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IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
FOR THE NINTH CIRCUIT

| | | |
|---|---|--------------------------|
| Frank Deville |) | No. 20-56328 |
| Dee Deville |) | [Civil Action No. |
| Plaintiffs-appellants, |) | 02:20-cv-05576 C.D Cal.] |
| |) | |
| v. |) | |
| |) | |
| Specialized Loan Servicing LLC, et al., |) | |
| Defendants-appellee, |) | |

On Appeal from the United States District Court
District of California

**NOTICE OF ERRATA TO
APPELLANTS OPENING BRIEF UNDER CIRCUIT RULE 4**

Frank Deville
(909) 921-6499
Dee Deville
(909) 921-6499
Pro Per Litigants,
Po Box 2042
Glendora Ca 91740

The errata is being filed to correct Excerpt of Record to Appellants opening brief, pages 11 & 36 of the Opening Brief. Appellants are pro se litigants and inadvertently failed to make a complete statement concerning the Second district of Ca Appeals on page 11 & on page 36 appellants forgot to put the case # second district of ca. Appeals court, in error by the appellants but the court never transferred the case into the correct court, which was meant to be filed in the California Supreme Court. The Opening Brief was filed as docket # 20. The document was filed on 05/17/2021 in this court, so appellants corrected and to see it in the corrected form Appellants corrected pages 11 & 36 of the Opening Brief is presented. The text of the document has not been modified. Appellants apologizes for the error and any inconvenience it may have caused the Court and Parties.

Respectfully submitted,

/s/ Frank Deville
Frank Deville

/s/ Dee Deville
Dee Deville
(909) 921-6499
Pro Per, Appellants
Po Box 2042
Glendora Ca 91740

May 20th, 2021

ER443-ER-444) and appealed on 10/5/2018 and dismissed on 10/4/2019

(Vol. 2, ER-447-449). Summary docket history in ca. Appeal (Vol. 7, ER-2043-ER-2046) and rehearing (Vol. 7, ER-2048). In the Ca. Appeal court appellants filed for a Petition for writ of Certiorari by error the court never transferred to the correct court case # B301429. The California Supreme court (Vol. 7, ER-2049) and the U.S Supreme court (Vol. 7, ER-2047).

In opposition to the transfer of claim 6-1 for SLS from the bankruptcy court and appealed to the district court by choice, SLS was not present at the hearing on 1/7/2020 and the issues were rule 3001(e), 3001 & 3007 denied on 1/8/2020. Appealed on 11/12/2019 and district court of appeal denied on 6/3/2020 (Vol. 6, ER-1761-ER-1764) without allowing the appellants the opportunity to see the deficiency and allowing the pro se appellants the opportunity to cure. SLS had a non california attorney signed in as their attorney in the bankruptcy court (Vol. 1, ER-254). Sls ignored the court directed ADR program.

Appellants believe there is fraud on the court in the state court overlooked the entry of default Vol.4, ER-1189) and the superior court requested the appellants to go into details about the money lost in the order and in third amended complaint the appellants did., bankruptcy court and an error of decision in the district court of appeal which did not allow the appellants the opportunity to see the deficiency and allow the pro se appellant the opportunity to cure. Appellants were denied the right for due process. and the right of a pro se litigant to know the deficiencies of the complaint to make corrections.

Appellants believe In the superior court the Appellants did state a claim (ER VOL. 2, 384-441). Appellants and their decision conflicts with federal laws. It was denied by the court and by the appeals court. The appellees filed the deeds of trust illegitimately in the state court and the

15 USC 1639: (d)

Federal Rule of Civil Procedure 19

rule 4001.(a)(1)

Rule 15

Rule 59(e)

Civil Code section 1048

Civil Code §3412

8 U.S CODE § 1324c

Rule60(a)

9. Other Pending Cases?

a. 20-56328; En Banc

10. Previous Cases ?

a. En Banc

b. B293129

c. B301429

d. BC678763

e. S258725

f. 19-7511

g. 20-56030

h. 5:20-cv-00158-JGB

i. 2:20-cv-05576-JGB-E

j. 6:16-bk-20478-SY

k. 6:17-ap-01152-SY

Conclusion

Appellants request that the court review the state, bankruptcy and district court decision due to error of law and fraud on the court.

Appellants declare that all information in this opening brief is true and correct to the best of our ability. All documents are true and correct copy attached to the expert of records.

Certificate of Service

I hereby certify that on this 21th day of May, 2021, I electronically transmitted the attached document to the Clerk's office of the United States Court of Appeals for the Ninth Circuit using the CM/ECF System for filing and transmitted a Notice of Electronic Filing to the following registrants:

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SERVICE LIST ATTACHED

Dated: May 21, 2021



Dominique Deville

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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I hereby certify that I electronically filed the foregoing/attached document(s) on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

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I certify that I served the foregoing/attached document(s) via email to all registered case participants on this date because it is a sealed filing or is submitted as an original petition or other original proceeding and therefore cannot be served via the Appellate Electronic Filing system.

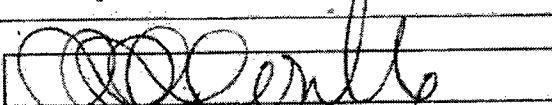
Service on Case Participants Who Are NOT Registered for Electronic Filing:

I certify that I served the foregoing/attached document(s) on this date by hand delivery, mail, third party commercial carrier for delivery within 3 calendar days, or, having obtained prior consent, by email to the following unregistered case participants (list each name and mailing/email address):

Description of Document(s) (required for all documents):

Notice Errata Motion & declaration
to make Correction to appellants Opening brief. Appellants left out important information concerning the appeals court of california. Appellants are pro se litigants and was pressed to file this document and in error did not go into details.

Signature



Date

(use "s/[typed name]" to sign electronically-filed documents)

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Frank Deville
Dee Deville
P.O. Box 2042
Glendora, CA 91740
Plaintiff in Pro Per

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Frank Deville

et al.,

Plaintiff(s)

v.

Specialized Loan Servicing,
LLC, et al.,

Defendant(s)

CaseNo.:2:20-cv-05576-JGB-E

Second
AMENDED MOTION TO
MOTION FOR RELIEF FROM
JUDGMENT OR ORDER
PURSUIT TO RULE 60.

Hearing Date: 9/7/2020

Hearing Time: 9:00am

Judge: Jesus G. Bernal

Crtm.: 1

RELIEF FROM A JUDGEMENT OR ORDER 1

ER-543

Pursuit to Rule 60 for relief from a judgement or order Plaintiffs' filed this civil suit on July 23, 2020. Plaintiffs are self represented. Plaintiffs are amending the civil cover sheet due to error in respect to a related case filed in this court. Plaintiffs have not filed any related case filing in this court. The Plaintiff's case venue is with western Division according to the civil cover sheet filed in this case and is attached to this document.. District Judge Jesus G. Bernal venue is with the Riverside District court, Eastern Division, District Judge Bernal lacks jurisdiction. Plaintiffs declination to the transfer for lack of jurisdiction and for error in the filing of the civil cover sheet docket No. 1 attachment # 1, which has been amended to docket No. 21. Plaintiffs decline pursuit of Civil Code 28 U.S § 1391(c)(2):

(c) Residency.—For all venue purposes—

(1) a natural person, including an alien lawfully admitted for permanent residence in the United States, shall be deemed to reside in the judicial district in which that person is domiciled;

(2) an entity with the capacity to sue and be sued in its common name under applicable law, whether or not incorporated, shall be deemed to reside, if a defendant, in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question and, if a plaintiff, only in the judicial district in which it maintains its principal place of business;

and

Rule 60. Relief from a Judgment or Order

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record.

Plaintiffs case has established jurisdiction to the Western Division, by domicile, which gives the western division jurisdiction. The case should not be transferred to Hon. Judge Jesus G. Bernal. The case should continue with the present Hon. Judge Andre Birotte. Plaintiffs do not consent to the transfer.

Generally a venue change only when there is consent from both parties has consented to the transfer.

CONCLUSION

Plaintiffs' seeks to alter judgement re transferring case, relief from judgement.

DATED: 8/3/2020

Respectfully submitted,

BY:/s/ Frank Deville
Frank Deville
In Pro Per

BY:/s/ Dee Deville
Dee Deville
In Pro Per

Frank Deville
frankdeville40@gmail.com
Dee Deville
ddeville40@gmail.com
Po Box 2042
Glendora Ca 91740

1 A. The first claim does have merritts Alleged against BOA, for
2 conspiracy (id. ¶¶ 92-120), Actual Fraud (id. ¶¶ 121-143), violation of
3 good faith & fair dealing (id. ¶¶ 144-154), Civil Rights violation (id. ¶¶
4 155-170), truth and lending laws (id. ¶¶ 171-179), civil contempt (id. ¶¶
5 180-183), professional codes (id. ¶¶ 184-197), breach of fiduciary duties
6 (id. ¶¶ 198), intentional infliction of emotional distress (id. ¶¶
7 199-201) and violation of 15 U.S.C. 1641(g) (id. ¶¶ 202-210). The
8 allegations are neither vague or uncertain. Plaintiffs are entitled to any
9 relief because the FAC does state a claim so the dismissal should be
10 overruled (*Addiego v. Hill* (1965) 238 Cal. App. 2d 842, 845.

11
12 Exception to the res judicata doctrine involves claims of so-called
13 continuing wrongs. An exception to the exception may arise when the
14 plaintiff in a second case is merely claiming additional damages. In such
15 a case, the res judicata analysis discussed above likely will not apply.
16 Rather, the second case will survive a res judicata analysis only where
17 the facts support a finding that the defendant committed a new,
18 independent contractual breach, in which they did. This exception to the
19 exception. the courts sometimes borrow from tort law which provides
20 that a continuing wrong is established by a continuing tortious act rather
21 than from continued harm stemming from a prior act. A limited
22 exception to the application of res judicata exists where a claim is
23 created in a prior case tainted by fraud.

24
25 Normally, such a prior decision would trump subsequent suits
26 regarding the same claim, but not in a case where fraud was involved.
27 However, the fraud exception to the application of res judicata itself
28

1 practices. The defendants' has violated the Truth in Lending laws act.
2 Defendants did not comply with 15 U.S.C 1642(g) by failing to comply
3 with the rules and conspiring one with another (id. ¶¶ 202 -210 FAC)
4 the letter sent to plaintiffs' does not comply with the rule and page 118
5 & 55 in the FAC.

6 The Note in this case was never actually transferred and
7 delivered to SLS on behalf of TOWD #1 & TOWD #2 , their trust or
8 indenture trust does not endorse showing them with any legal grounds
9 to act, nor Wells to the depositor and by the depositor to the Custodian
10 on behalf of the Trustee for the Trust pursuant to the requirements to
11 PSA was not listed in any of the documents filed by the Trust and
12 available to the public at www.SEC.REPORT/CIK.gov. Plaintiffs allege
13 that the Note in this case was never lawfully negotiated and endorsed to
14 the Trust violating 18 U.S.C §§ 152 & 3571 (id. ¶¶ 26-30). SLS, was
15 acting within the scope of such partnership,agency employment in
16 furthermore of said conspiracy.

17
18 Wells have occasionally reported mortgage payments late that were
19 not and applied payments to the principal, decreasing the outstanding
20 balance illegally by misapplying the payments--either toward the
21 principal or putting full mortgage payments toward a suspense account
22 (see exhibit 4 D page 23-25 in Amended Affidavit); which violates
23 lending laws, similar to what SLS is doing as representation agents for
24 Towd 2019, Towd 2020 (see Amended Affidavit exhibit 3 C & 21 U page
25 2) in that document all defendants has caused plaintiffs' to double pay
26 payments for illegal gain or profit (id. ¶¶ 15-16 FAC). In violation of
27
28

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 20-5576-JGB(Ex) Date July 29, 2020
 Title FRANK DEVILLE, ET AL. v. SPECIALIZED LOAN SERVICING, LLC, ET AL.

Present: The Honorable Charles F. Eick, United States Magistrate Judge

| | | |
|-----------------------|----------------------------------|-----------------|
| <u>Stacey Pierson</u> | <u>None</u> | <u>None</u> |
| <u>Deputy Clerk</u> | <u>Court Reporter / Recorder</u> | <u>Tape No.</u> |

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: (IN CHAMBERS)

Plaintiffs' "[Motion for] Rule 60. Relief from a Judgment or Order," filed July 8, 2020. "Motion to Alter Judgment etc.," filed July 9, 2020, and "Amended Motion for Relief from Judgment, etc.," filed July 24, 2020, are denied. These motions are not discovery-related motions, and yet the motions purport to schedule August, 2020 hearings before the assigned Magistrate Judge. The motions are thus misdirected. See "Notice of Assignment etc.," filed June 23, 2020 ("Discovery-related motions should be noticed for hearing before the assigned magistrate judge"). This denial is without prejudice to Plaintiffs' right to seek relief from the assigned District Judge.

cc: Judge Bernal
 Plaintiffs
 Counsel for Defendants

Initials of Deputy Clerk SP

RELIEF FROM A JUDGEMENT OR ORDER 14

1 times acting within the purpose and scope of such partnership, agency
2 and or employment furthermore of said conspiracy. The note on the
3 loan did not identify the defendants as its holder.

4 Defendant SLS the third party agent did not properly record the
5 transfer at the San Bernardino county Recorder's Office or just
6 co-conspirators to the act but either way they are participants to the act,
7 San Bernardino county Recorder's Office where the property is located
8 (which was stated in the delayed letter that was received in April 2020,
9 but letter was dated for October 10, 2020) and did not comply to 15
10 U.S.C. §1641(g) amended Affidavit 31 EE page 154.SLS is responsible
11 for collection of HELOC payments.
12

13 Double payments have been made and not have been properly
14 applied as stated in the FAC id. ¶ 46 ,violating 15 U.S.Code §1639f(a),
15 by deliberately making any misstatement, misrepresentation, or
16 omission during the mortgage, the defendants 60 days has passed
17 preventing them from claiming unintentional or happen by mistake and
18 should be liable under 15 U.S. Code § 1640 & 15 USC §1666. Civil
19 Liability. Defendants' have committed unlawful conduct by breaching
20 the contract, with extreme grossly negligent, with willful and malicious
21 intentions. Violations of a contractual obligation by not properly
22 applying payment even after they were aware of the allegation, their
23 misconduct was intentional (id. ¶ 53, FAC). Section 3.03(k)
24 Representations and Warranties as to Individual Revolving Credit
25 Loans.
26
27
28

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERALCase No. EDCV 20-5576 JGB (Ex) Date November 20, 2020Title Frank Deville and Dee Deville v. Specialized Loan Servicing, LLC, et al.Present: The Honorable JESUS G. BERNAL, UNITED STATES DISTRICT JUDGEMAYNOR GALVEZ

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Plaintiff(s):

None Present

Attorney(s) Present for Defendant(s):

None Present

Proceedings: Order (1) **GRANTING** Bank of America, Specialized Loan Servicing, LLC, and Wells Fargo's Motions to Dismiss (Dkt. Nos. 154, 155, 159); (2) **DENYING** Plaintiffs' Motion for Leave to File Fourth Amended Complaint as MOOT (Dkt. No. 170); and (3) **VACATING** the November 23, 2020 Hearing (IN CHAMBERS)

Before the Court are three motions to dismiss: (1) a motion filed by Bank of America, North America ("BANA") ("BANA MTD," Dkt. No. 154); (2) a motion filed by Specialized Loan Servicing ("SLS") ("SLS MTD," Dkt. No. 159); and (3) a motion filed by Wells Fargo ("WF MTD," Dkt. No. 155) (collectively, "MTDs"), and a motion for leave to file a Fourth Amended Complaint (Dkt. No. 170). The Court determines these matters are appropriate for resolution without a hearing. See Fed. R. Civ. P. 78; L.R. 7-15. After considering all papers filed in support of and in opposition to the motions, the Court GRANTS Defendants' MTDs, and DENIES Plaintiffs' motion as MOOT. The November 23, 2020 hearing is VACATED.

I. BACKGROUND

A. Prior Proceedings

1. Proceedings in this Court

On June 23, 2020, Plaintiffs Frank Deville and Dee Deville filed a complaint against Defendants. ("Complaint," Dkt. No. 1.) Plaintiffs amended their Complaint as of right, filing a First Amended Complaint on July 3, 2020. ("FAC," Dkt. No. 18.) On July 23, 2020, BANA moved to dismiss the FAC. (Dkt. No. 54.) On July 30, 2020, SLS also filed a motion to dismiss

the FAC. (Dkt. No. 68.) On July 31, 2020, Wells Fargo followed suit. (Dkt. No. 77.) Towd Point Master Funding Trust 2019-PM7, U.S. Bank National Association ("U.S. Bank") joined the SLS motion on August 3, 2020. (Dkt. No. 80.) On September 9, 2020, the Court granted Defendants' motions to dismiss, with leave for Plaintiffs to file an amended complaint by September 25, 2020. ("First MTD Order," Dkt. No. 125.)

On September 25, 2020, Plaintiffs filed a Second Amended Complaint.¹ ("SAC," Dkt. No. 127.) The SAC alleges nine causes of action: (1) civil conspiracy; (2) actual fraud in violation of Cal. Civ. Code §§ 1572 and 1573; (3) breach of covenant of good faith and fair dealing; (4) violation of Truth in Lending Act; (5) civil contempt under Cal. Civ. Proc. Code § 1218; (6) violation of Cal. Bus. Prof. Code § 17200 *et seq.*; (7) breach of fiduciary duties; (8) intentional infliction of emotional distress; and (9) violation of 15 U.S.C. § 1641(g). (*Id.*)

On October 9, 2020, BANA filed the BANA MTD. (Dkt. No. 154.) On that same date, Wells Fargo filed the WF MTD (Dkt. No. 155) and a request for judicial notice ("WF RJN," Dkt. No. 156). On October 13, 2020, SLS filed the SLS MTD (Dkt. No. 159) and a request for judicial notice ("SLS RJN," Dkt. No. 160).

On October 19, 2020, Plaintiffs filed Oppositions to the BANA MTD ("BANA MTD Opp'n," Dkt. No. 166), the WF MTD ("WF MTD Opp'n," Dkt. No. 165), the WF RJN ("WF RJN Opp'n," Dkt. No. 168), the SLS MTD ("SLS MTD Opp'n," Dkt. No. 171), and the SLS RJN ("SLS RJN Opp'n," Dkt. No. 173).

On October 23, 2020, Wells Fargo filed a Reply. ("WF Reply," Dkt. No. 172.) BANA filed a Reply on October 26, 2020. ("BANA Reply," Dkt. No. 174.) SLS followed with its Reply to Plaintiffs' Oppositions to the SLS MTD and SLS RJN on October 30, 2020. ("SLS MTD Reply," Dkt. No. 178; "SLS RJN Reply," Dkt. No. 179.)

Plaintiffs separately responded to all the Replies. On October 26, 2020, Plaintiffs filed a response to the WF Reply. ("WF Sur-Reply," Dkt. No. 176.) On October 27, 2020, Plaintiffs filed a response to the BANA Reply. ("BANA Sur-Reply," Dkt. No. 177.) Finally, on October 30, 2020, Plaintiffs filed a response to the SLS MTD Reply ("SLS MTD Sur-Reply," Dkt. No. 180), and the SLS RJN Reply ("SLS RJN Sur-Reply," Dkt. No. 181).

On October 22, 2020, Plaintiffs filed a motion for leave to file an amended complaint. (Dkt. No. 170.) On November 16, 2020, SLS filed an opposition. (Dkt. No. 184.) Plaintiffs replied on that same day. (Dkt. No. 185.) On November 17, 2020, BANA filed an opposition (Dkt. No. 186), Wells Fargo filed a joinder to the SLS opposition (Dkt. No. 187), and Plaintiffs replied to the BANA opposition (Dkt. No. 188).

¹ While Plaintiffs mistakenly label this amended complaint as Third Amended Complaint, it is in fact Plaintiffs' Second Amended Complaint.

2. Plaintiffs' Loan

In 2004, Plaintiffs obtained a loan secured by a deed of trust against Plaintiffs' real property in Rancho Cucamonga. (SAC ¶ 10.) In October 2007, Plaintiffs obtained a second-position home equity line of credit from BANA. (*Id.*) In July 2010, Plaintiffs entered into a loan modification with Wells Fargo. (*Id.* ¶ 122.) Plaintiffs suffered financial difficulties that led them to miss some payments on the loan and file for bankruptcy. (*Id.* ¶¶ 10-11.)

3. Bankruptcy Proceedings

On November 29, 2016, Plaintiffs filed a voluntary petition under Chapter 13 of Title 11 of the United States Code in the United States Bankruptcy Court for the Central District of California, Riverside Division (hereinafter, "Chapter 13 Bankruptcy"). (SLS RJN Ex. 1;² SAC ¶ 10.) On January 27, 2017, BANA filed a proof of claim for repayment of Plaintiffs' second-position home equity line of credit, in the amount of \$93,778.54. ("Proof of Claim," SLS RJN, Ex. 2.) Plaintiffs did not file an opposition to that Proof of Claim. (*See generally* SLS RJN, Ex. 3 (depicting Chapter 13 Bankruptcy docket).) On October 21, 2019, BANA filed a "Transfer of Claim Other Than for Security," transferring the Proof of Claim to SLS. ("Transfer of Proof of Claim," *Id.* Ex. 4.) On November 12, 2019, Plaintiffs filed a "Notice of Opposition and Request for Hearing" as to the Transfer of Proof of Claim. ("Transfer Opposition," *Id.* Ex. 5.) Plaintiffs' Transfer Opposition cited Federal Bankruptcy Rules of Procedure ("Bankruptcy Rules") 3001, 3001(e)(2), and 3007 as grounds for their objection. (*Id.*) The Bankruptcy Court denied the Transfer Opposition on January 8, 2019. (*Id.* Ex. 6.)

4. Bankruptcy Appeal

Plaintiffs appealed the Bankruptcy Court's denial of their Transfer Opposition on January 22, 2020. (SLS RJN, Ex. 9.) On June 3, 2020, this Court dismissed Plaintiffs' appeal, finding that Plaintiffs "lack standing to object to the transfer of the claim at issue" under Bankruptcy Rules 3001 or 3007. ("Bankruptcy Appeal Order," *Id.* at 3.)

5. State Court Proceedings

On October 6, 2017, Plaintiffs filed a lawsuit against Wells Fargo in the Superior Court of California for the County of Los Angeles. (WF RJN, Ex. 1.) The complaint alleged that Wells Fargo violated "mortgage banking rules" by increasing Plaintiffs' loan term from 30 years to 50 years, and that Wells Fargo failed to properly apply Plaintiffs' mortgage payments. (*Id.* at 15.)

² SLS and Wells Fargo request judicial notice of filings and court orders from the Bankruptcy proceedings, the Bankruptcy Appeal, and state court proceedings. Courts "may take judicial notice of matters of public record, including duly recorded documents, and court records available to the public through the Pacer system via the internet." *Peviani v. Hostess Brands, Inc.*, 750 F. Supp. 2d 1111, 1116 (C.D. Cal. 2010). The Court GRANTS the requests and takes judicial notice of these records.

Plaintiffs asserted causes of action for negligence, fraud, and injunctive and restitutionary relief. (*Id.*) Wells Fargo demurred to the complaint, and the trial court sustained the demurrer with leave to amend. (WF RJN, Ex. 2.) Plaintiffs filed a first amended complaint in July 2018. (*Id.* Ex. 3.) Wells Fargo demurred to the amended complaint, which was sustained without leave to amend. (*Id.* Ex. 4.) Plaintiffs appealed the dismissal, and in June 2020, a California Court of Appeals affirmed the trial court judgment. (*Id.* Ex. 5.)

II. LEGAL STANDARD

Defendants move to dismiss the SAC under Federal Rules of Civil Procedure 8(a) and 12(b)(6).

A. Rule 8(a)

Under Federal Rule of Civil Procedure 8(a), a complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). Although the Federal Rules adopt a flexible pleading policy, a complaint must give fair notice and state the elements of the claim plainly and succinctly. *Jones v. Comty. Redev. Agency of City of Los Angeles*, 733 F.2d 646, 649 (9th Cir. 1984). Therefore, a plaintiff must allege with at least some degree of particularity the overt acts which the defendants engaged in that support plaintiff’s claim. *Id.* “[A] pleading that [is] needlessly long, or... highly repetitious, or confused, or consist[s] of incomprehensible rambling” violates Rule 8(a). *Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1059 (9th Cir. 2011) (quoting 5 Charles A. Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1217 (3d ed. 2010)).

Dismissal is appropriate where the complaint fails to meet the requirements of Rule 8. The propriety of dismissal for failure to comply with Rule 8 does not depend on whether the complaint is wholly without merit: Rule 8’s requirements “appl[y] to good claims as well as bad, and [are] a basis for dismissal independent of Rule 12(b)(6).” *McHenry v. Renne*, 84 F.3d 1172, 1179 (9th Cir. 1996).

B. Rule 12(b)(6)

Under Federal Rule of Civil Procedure 12(b)(6) (“Rule 12(b)(6)”), a party may bring a motion to dismiss for failure to state a claim upon which relief can be granted. Rule 12(b)(6) must be read in conjunction with Federal Rule of Civil Procedure 8(a). *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007); see *Horosny v. Burlington Coat Factory, Inc.*, 2015 WL 12532178, at *3 (C.D. Cal. Oct. 26, 2015). When evaluating a Rule 12(b)(6) motion, a court must accept all material allegations in the complaint — as well as any reasonable inferences to be drawn from them — as true and construe them in the light most favorable to the non-moving party. See *Doe v. U.S.*, 419 F.3d 1058, 1062 (9th Cir. 2005); *ARC Ecology v. U.S. Dep’t of Air Force*, 411 F.3d 1092, 1096 (9th Cir. 2005); *Moyo v. Gomez*, 32 F.3d 1382, 1384 (9th Cir. 1994).

“While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” Twombly, 550 U.S. at 555 (citations omitted). Rather, the allegations in the complaint “must be enough to raise a right to relief above the speculative level.” Id.

To survive a motion to dismiss, a plaintiff must allege “enough facts to state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it stops short of the line between possibility and plausibility of ‘entitlement to relief.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Twombly, 550 U.S. at 556). The Ninth Circuit has clarified that (1) a complaint must “contain sufficient allegations of underlying facts to give fair notice and to enable the opposing party to defend itself effectively,” and (2) “the factual allegations that are taken as true must plausibly suggest an entitlement to relief, such that it is not unfair to require the opposing party to be subjected to the expense of discovery and continued litigation.” Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011).

III. DISCUSSION

A. Rule 8(a) Deficiencies

Defendants seek to dismiss Plaintiffs’ SAC for failure to comply with Rule 8(a). In its First MTD Order, the Court dismissed Plaintiffs’ FAC because it failed to meet Rule 8(a)’s requirement that it provide “a short and plain statement of the claim showing that [Plaintiffs are] entitled to relief.” See Fed. R. Civ. P. 8(a) (emphasis added); (see also First MTD Order at 4.) The FAC was 50 pages long, with 210 paragraphs of repetitive and convoluted allegations, along with 108 pages of exhibits. In the FAC, Plaintiffs failed to specify allegations against particular defendants, and mainly consisted of lengthy descriptions of disparate events, unsupported accusations of wrongdoing and wrongful intent, and conclusory statements, making it impossible for the Court to evaluate the assertions supporting Plaintiffs’ claims. (First MTD Order at 4.) The Court dismissed the FAC pursuant to Rule 8(a) and Rule 12(b)(6), granted leave to amend as to most claims, and offered Plaintiffs extensive guidance on what to do to survive Defendants’ likely Rule 8(a) and Rule 12(b)(6) motions.

The SAC, however, fails to remedy many of the deficiencies identified in the First MTD Order. In fact, the SAC is more than twice as long as the FAC, with 109 pages and 380 paragraphs, along with an additional 89 exhibits spanning more than 500 pages. (See generally SAC.) Plaintiffs argue that this is because “[t]he court request[ed] the plaintiffs to allege claims individually for each defendant which would require more pages.” (SLS Opp’n at 7.) But while the Court did ask Plaintiffs to group the allegations by cause of action and by Defendant, the Court also “urge[d] [Plaintiffs] to eliminate irrelevant details and repetitions and clearly indicate which facts serve as the basis of each cause of action.” (First MTD at 9.) The Court further

cautioned that Plaintiffs' amended complaint "should be brief ... but must state what each named defendant did that led to the deprivation of Plaintiffs' rights." (*Id.*)

The Court recognizes Plaintiffs' efforts to include Defendant-specific allegations for each Count. However, while the SAC now includes headings for each Defendant under each Count along with some additional factual allegations, the SAC restates the same or similar facts repeatedly, and includes a barrage of conclusory allegations listing the elements of causes of action. The SAC remains unnecessarily long and redundant, "scattering and concealing in a morass or irrelevancies the few allegations that matter." Shu v. Brennan, 2017 WL 10591600, at *2 (C.D. Cal. Dec. 4, 2017). Plaintiffs' allegations also rely heavily on citations to the 89 (and 500+ pages of) exhibits for support. Plaintiffs regularly cite to these non-consecutive exhibits, often without providing page numbers or details about the exhibits.

The combined result of these deficiencies is an SAC that is lengthy, convoluted, and confused. "[A] pleading that [is] needlessly long, or... highly repetitious, or confused, or consist[s] of incomprehensible rambling" violates Rule 8(a). Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc., 637 F.3d 1047, 1059 (9th Cir. 2011) (quoting 5 Charles A. Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1217 (3d ed. 2010)); see also Orea v. Quality Loan Serv., Corp., 2019 WL 8884117, at *4 (C.D. Cal. Nov. 26, 2019) ("Rule 8(a) is violated where... the length, complexity and lack of organization of Plaintiffs' Complaint, coupled with the inclusion of numerous irrelevant details and the absence of a clear statement of Plaintiffs' claims, render it so confusing that it fails to give Defendants fair notice regarding the nature of the claims alleged.").

Because Plaintiffs bring this action pro se, the Court holds their pleadings to less stringent standards than those drafted by attorneys. Haines v. Kerner, 404 U.S. 520 (1971). But even under a less demanding standard, Plaintiffs' SAC must be sufficiently organized and clear to allow Defendants to prepare a proper defense and rebut allegations against them. And pro se status does not grant license to shun the Federal Rules of Civil Procedure, including Rule 8(a). See, e.g., Struggs v. Pfeiffer, 2019 WL 6211220, at *1-2 (E.D. Cal. Nov. 21, 2019) (invoking Rule 8(a) in dismissing plaintiffs' forty-two page complaint); Davis v. Brennan, 2019 WL 2932642, at *5 (C.D. Cal. Mar. 20, 2019) (dismissing ninety page complaint filed by pro se plaintiff); Shu, 2017 WL 10591600, at *2 (dismissing pro se plaintiff's 148 page and 269 paragraph complaint); Scott v. Beregovskay, 2017 WL 3896366, at *1 (E.D. Cal. Sept. 6, 2017) (dismissing pro se plaintiff's eighty page complaint for lack of short and plain statement of claims); Peyton v. Vasquez, 2008 WL 4168837, at *1 (E.D. Cal. Sept. 5, 2008) (dismissing pro se plaintiff's "rambling, sixty-five page" complaint under Rule 8(a)); Orea, 2019 WL 8884117, at *4 (dismissing pro se plaintiff's ninety-seven page "unnecessarily long and redundant" complaint). Thus, the Court finds that Plaintiffs' SAC fails to comply with Rule 8(a). Accordingly, the Court GRANTS Defendants' MTDs and DISMISSES the SAC in its entirety.

Despite these deficiencies, after engaging in the burdensome interpretative task of deciphering Plaintiffs' allegations and claims, the Court finds that this action is also barred by res judicata.

B. Claim Preclusion

Wells Fargo and BANA argue that Plaintiffs' claims are barred by claim preclusion. (WF MTD at 13; BANA MTD at 6.) Claim preclusion applies where there is: "(1) an identity of claims, (2) a final judgment on the merits, and (3) privity between parties." Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency, 322 F.3d 1064, 1077 (9th Cir. 2003). "Res judicata bars the relitigation not only of claims that were conclusively determined in the first action, but also matter that was within the scope of the action, related to the subject matter, and relevant to the issues so that it could have been raised." Burdette v. Carrier Corp., 158 Cal. App. 4th 1668, 1674-75 (2008), as modified on denial of reh'g (Feb. 14, 2008). "That applies to matters decided in bankruptcy." Siegel v. Fed. Home Loan Mortg. Corp., 143 F.3d 525, 529 (9th Cir. 1998). The Court finds that all three elements of claim preclusion are satisfied.

1. Identity of Claims

First, the Court finds that there is an identity of claims between Plaintiffs' prior bankruptcy and state court proceedings and this action. A court must weigh four factors in order to determine whether there is an identity of claims for purposes of claim preclusion: "(1) whether rights or interests established in the prior judgment would be destroyed or impaired by prosecution of the second action; (2) whether substantially the same evidence is presented in the two actions; (3) whether the two suits involve infringement of the same right; and (4) whether the two suits arise out of the same transactional nucleus of facts." Harris v. Cty. of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012) (citing United States v. Liquidators of European Fed. Credit Bank, 630 F.3d 1139, 1150 (9th Cir. 2011)). "The fourth criterion is the most important." Id.

Here, Plaintiffs' claims "arise out of the same transactional nucleus of facts" as those in Plaintiffs' Bankruptcy proceedings, Bankruptcy Appeal, and/or state court proceedings. Plaintiffs' claims against BANA, SLS, and U.S. Bank largely turn on the dispute over the propriety of BANA's Proof of Claim and the Transfer of the Proof of Claim to SLS. (See, e.g., SAC ¶¶ 22, 28, 30, 31, 50, 64 - 65, 69, 74, 133, 135, 144, 148-51, 206, 253-57, 271, 316, 377.) Yet, Plaintiffs have already unsuccessfully challenged the Transfer, and both this Court and the Bankruptcy Court have rejected these challenges. (SLS RJN, Exs. 6, 7.)

Plaintiffs' claims against Wells Fargo are similarly premised on allegations that Wells Fargo concealed information pertaining to Plaintiffs' mortgage loan, refused to fund the account appropriately, and improperly modified their loan. (See, e.g., SAC ¶¶ 59-60, 100-27, 185, 210-11, 219, 267.) Plaintiffs have also made similar claims against BANA and SLS. (See, e.g., SAC ¶¶ 203-05, 233-36, 239-43, 272, 274.) But Plaintiffs' state lawsuit against Wells Fargo was based on the same factual predicates. (WF RJN - Ex. 1.) A California trial court dismissed Plaintiffs' complaint without leave to amend, and a California Appeals Court affirmed that determination. (WF RJN, Exs. 4-5.)

While Plaintiffs have asserted new legal theories as the basis of relief here, the core factual disputes from which these new claims arise is the same. “Plaintiffs’ presentation of new legal theories does not prevent res judicata from attaching, as that doctrine also ‘precludes piecemeal litigation by splitting a single cause of action or relitigation of the same cause of action on a different legal theory or for different relief.’” Varma v. Nationstar Mortg. LLC, 2018 WL 10517191, at *3 (C.D. Cal. Oct. 4, 2018) (citing Weikel v. TCW Realty Fund II Holding Co., 55 Cal. App. 4th 1234, 1245 (1997)); see also Turtle Island Restoration Network v. U.S. Dep’t of State, 673 F.3d 914, 918 (9th Cir. 2012) (holding that where claims arise from the same factual circumstances, a plaintiff must bring all related claims together or forfeit the opportunity to bring them in a subsequent proceeding). Thus, because “[t]here are no real differences ... between the factual predicates for the [] actions” this criterion strongly weighs in favor of an identity of claims.³ Liquidators, 630 F.3d at 1151.

Plaintiffs’ arguments to the contrary are unavailing. Plaintiffs assert, in passing, that res judicata does not apply because “the claim subsequently raised involves a second, independent contractual breach” or “the second claim is for a continuing wrong.” (WF Opp’n at 3.) But “[s]imply identifying continuing harm from the same conduct is insufficient to overcome res judicata[,]” and Plaintiffs have failed to identify a “new wrongdoing.” N. California River Watch v. Humboldt Petroleum, Inc., 162 F. App’x 760, 763 (9th Cir. 2006).

2. Final Judgment on the Merits

Second, the Court finds that these claims have already been resolved through a final decision on the merits. BANA filed a Proof of Claim, which was allowed by the Bankruptcy Court. (SLS RJN, Ex. 2.) While Plaintiffs failed to object to that initial Proof of Claim, the “allowance” of that claim “is a final judgment.” Siegel, 143 F.3d at 528, 530 (“[I]f [people] do not [raise objections and litigate them], the claim will be treated in all respects as a claim allowed by the court itself. In short, the validity of the claim has been determined on the merits. . . .”). Plaintiffs did object to the Transfer of Proof of Claim from BANA to SLS, but the Bankruptcy Court denied Plaintiffs’ Transfer Opposition. (SLS RJN, Ex. 6.) This Court then dismissed Plaintiffs’ appeal of that determination with prejudice, finding that Plaintiffs lacked statutory standing to challenge the Transfer of Proof of Claim. (SLS RJN at 7.) Along the same lines, a California state court dismissed Plaintiffs’ complaint with prejudice as to Defendant Wells Fargo. (WF RJN, Ex. 2 at 2.) That decision was affirmed by a California Court of Appeals. (WF RJN, Ex. 5.) These dismissals with prejudice are final judgments on the merits and thus have res judicata effect. In re Marino, 181 F.3d 1142, 1144 (9th Cir. 1999).

Plaintiffs argue that because the bankruptcy appeal was denied for lack of standing, it is not a final judgment. (WF Opp’n at 4.) But courts have repeatedly held that where, as here, claims are dismissed with prejudice for lack of statutory standing, that is a final judgment on the

³ The parties don’t address the other factors, and the Court finds that they are either neutral or weigh in favor of finding an identity of claims.

merits. Hassanati v. Int'l Lease Fin. Corp., 738 F. App'x 443, 444 (9th Cir. 2018) (finding that where court granted summary judgment because plaintiffs lacked statutory standing, rather than Article III standing, court intended to render a final judgment on the merits, and res judicata was appropriate); Thrower v. Nationstar Mortg. LLC, 2017 WL 4923504, at *4 (E.D. Cal. Oct. 31, 2017) (finding that dismissal with prejudice based on lack of standing was a final judgment on the merits, and res judicata was therefore appropriate); Ghalehtak v. Fay Servicing, LLC, 304 F. Supp. 3d 877, 885 (N.D. Cal. 2018), aff'd, 765 F. App'x 168 (9th Cir. 2019) (finding that dismissal on grounds that plaintiffs lacked standing to challenge securitization of their loan was a resolution on the merits which became final when judge entered judgment); Stan Lee Media Inc. v. Lee, 2012 WL 4048871, at *3 (C.D. Cal. Aug. 23, 2012), aff'd on other grounds, 585 F. App'x 597 (9th Cir. 2014) (noting that "a determination that a plaintiff lacks statutory standing ... is not constitutional in dimension and does not divest a court of subject matter jurisdiction"). Moreover, "a bankruptcy court's allowance or disallowance of a [proof of] claim is a final judgment." Siegel, 143 F.3d at 529.

Plaintiffs also argue that "there has not been any guilty or non-guilty judgment in the case to be able to claim res judicata." (WF Sur-Reply at 4; SAC ¶ 34.) But there are no guilty or non-guilty determinations in civil actions between private parties, such as this one. Nor is a "full trial" required for res judicata to apply. (SAC ¶ 46.) As established above, a dismissal with prejudice constitutes a final judgment. Plaintiffs similarly seek to apply the double jeopardy doctrine to argue that a jury trial is necessary for purposes of res judicata. (Id.) But this argument misconstrues that doctrine, and in any event, the double jeopardy doctrine under the Fifth Amendment to the U.S. Constitution "does not apply in civil cases between private litigants." Ashby v. Farmers Ins. Co. of Oregon, 592 F. Supp. 2d 1307, 1315 (D. Or. 2008) (citing Hudson v. U.S., 522 U.S. 93, 98 (1997)).

3. Privity Between Parties

Finally, the Court finds that there is privity between the parties in this and the prior related actions. Privity is a flexible concept determined to exist when parties share a sufficient commonality of interest and "are so closely aligned in [their] interest[s] that one is the virtual representative of the other." Irwin v. Mascott, 370 F.3d 924, 929 (9th Cir. 2004). Here, Plaintiffs do not appear to dispute that privity between parties exists. Plaintiffs are both parties to the Chapter 13 Bankruptcy, the Bankruptcy Appeal, and the state court proceedings. And all Defendants were parties to at least one prior proceedings (Wells Fargo was a party to the state court proceedings, SLS was a party to the Bankruptcy Appeal, and BANA, SLS, and U.S. Bank were involved in the Bankruptcy proceedings). In any event, in relation the Plaintiffs' claims, Defendants "adequately represent the same legal interests." Va. Sur. Co. v. Northrop Grumman Corp., 144 F.3d 1243, 1247 (9th Cir.1998) (internal citation omitted); see also Headwaters Inc. v. U.S. Forest Serv., 399 F.3d 1047, 1054 (9th Cir.2005) ("[I]dentity of interests and adequate representation are necessary to such a finding [of privity]."). "It is the identity of interest that controls in determining privity, not the nominal identity of the parties." Va. Sur. Co., 144 F.3d at 1247.

C. Collateral Estoppel

Defendants also argue that this action is barred by issue preclusion. (SLS MTD at 6; WF MTD at 13.) The Court agrees. Issue preclusion (also known as collateral estoppel) applies where: "(1) the issue at stake was identical in both proceedings; (2) the issue was actually litigated and decided in the prior proceedings; (3) there was a full and fair opportunity to litigate the issue; and (4) the issue was necessary to decide the merits." Oyeniran v. Holder, 672 F.3d 800, 806 (9th Cir. 2012), as amended (May 3, 2012). "The doctrine of collateral estoppel applies on issues litigated even though some factual matters or legal arguments which could have been raised were not." Burdette, 158 Cal. App. 4th at 1688. The Court finds that all four elements of issue preclusion are also satisfied.

The SAC is premised on Plaintiffs' challenges to the Proof of Claim BANA filed in the bankruptcy proceedings, and the transfer of that claim to SLS. (SLS MTD at 6.) Plaintiffs challenged BANA's Transfer of Proof of Claim to SLS in Bankruptcy Court, and in an appeal before this Court. The Bankruptcy Court rejected Plaintiffs' Transfer Opposition, and this Court dismissed with prejudice Plaintiffs' appeal. Here, Plaintiffs seek to litigate the same issue. And as established above, these claims were adjudicated on the merits.

Because Plaintiffs' claims are barred by res judicata, the Court does not reach Defendants' remaining arguments for dismissal. The Court DISMISSES the SAC in its entirety without leave to amend.

D. CONCLUSION

For the reasons above, the Court GRANTS Defendants' Motion. The November 23, 2020 hearing is VACATED. Plaintiffs' motion for leave to file a Fourth Amendment Complaint is DENIED as MOOT. The Clerk is directed to close the case.

IT IS SO ORDERED.

Material Provisions of the Fair Housing Act

42 U.S. Code § 3604 - Discrimination in the sale or rental of housing and other prohibited Practices

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

* * *

42 U.S. Code § 3613 - Enforcement by private persons

(a) Civil action

(1)

(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this subchapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this subchapter was pending with respect to a complaint or charge under this subchapter based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 3610(a) of this title and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 17 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FRANK DEVILLE; DEE ANETIONETTE
DEVILLE,

Plaintiffs-Appellants,

v.

SPECIALIZED LOAN SERVICING LLC,
Individually and as Servicing agent for
Towd Point Mortgage trust 2020-1; et al.,

Defendants-Appellees.

No. 20-56030

D.C. No.
2:20-cv-05576-JGB-E
Central District of California,
Los Angeles

ORDER

Before: W. FLETCHER, BERZON, and BYBEE, Circuit Judges.

The motion for reconsideration en banc (Docket Entry No. 15) is denied on behalf of the court. See 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

All other pending motions are denied as moot.

Appellants' appeal from the final order entered in the district court on November 20, 2020 is proceeding in this court as appeal No. 20-56328.

No further filings will be entertained in this closed case.

MF/Pro Se

ER-1983

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 25 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FRANK DEVILLE and DEE
ANETIONETTE DEVILLE,

Plaintiffs - Appellants,

v.

SPECIALIZED LOAN SERVICING
LLC, Individually and as Servicing
agent for Towd Point Mortgage trust
2020-1; et al.,

Defendants - Appellees.

No. 20-56030

D.C. No. 2:20-cv-05576-JGB-E
U.S. District Court for Central
California, Los Angeles

MANDATE

The judgment of this Court, entered October 15, 2020, takes effect this date.

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

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Nixon Antonio Callejas Morales
Deputy Clerk
Ninth Circuit Rule 27-7

ER-1984

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 16 2021

MOLLY G. DWYER, CLERK
U.S. COURT OF APPEALS

FRANK DEVILLE; DEE ANETIONETTE
DEVILLE,

Plaintiffs-Appellants,

v.

SPECIALIZED LOAN SERVICING LLC,
Individually and as Servicing agent for
Towd Point Mortgage trust 2020-1; et al.,

Defendants-Appellees.

No. 20-56328

D.C. No.
2:20-cv-05576-JGB-E
Central District of California,
Los Angeles

ORDER

Before: CLIFTON and BRESS, Circuit Judges.

Appellants' emergency motion to conclude proceedings in related appeal No. 20-56030 (Docket Entry No. 16) is denied as unnecessary. The mandate issued in that appeal on February 25, 2021.

Appellants' emergency motion for protection from harassment (Docket Entry No. 16) is denied.

The existing briefing schedule remains in effect.

AT/MQATT

ER-1985