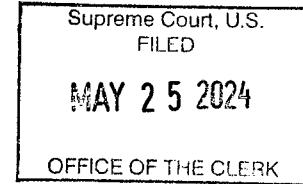


No. 24-5246

IN THE
SUPREME COURT OF THE UNITED STATES

Lissette Napoleoni — PETITIONER

vs. —



DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE, ON BEHALF OF
THE HOLDERS OF THE IMPAC SECURED
ASSETS CORP. MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-1

CASE NUMBER: A-19-803643-C District Court Clark County

CASE NUMBER: 84696 Nevada Court of Appeals

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Nevada State Court of Appeals

Date: Wednesday, July 24th, 2024

PETITION FOR WRIT OF CERTIORARI

Lissette Napoleoni

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QUESTION(S) PRESENTED

1. *Is it permissible for evidence riddled with blatant errors to be used to infer a legal decision without undergoing authentication, trial, witness, and expert scrutiny?*
2. *In a legal context, can evidence comprising an unendorsed Note, an Assignment of Deed of Trust containing inaccuracies and misrepresentations regarding a transfer and endorsement, and two contradictory Lost Note Affidavits be deemed adequate to establish preponderance of evidence? Especially if the evidence has not undergone authentication procedures, discovery processes, or scrutiny by witnesses or experts?*
3. *Should contradictory and erroneous evidence be thoroughly examined, authenticated, and subjected to cross-examination and expert analysis to ensure its accuracy and reliability in legal proceedings?*
4. *Does failing to follow proper procedures and scrutinize evidence effectively undermine the integrity of the legal process and render a legal decision invalid?*
5. *What are the potential consequences of allowing evidence with errors to influence legal decisions without proper scrutiny?*
6. *Is it considered fraud if none of the major elements in a piece of evidence is incorrect?*
7. *Can a misrepresentation occur if an Assignment of Deed of Trust indicates a transfer that did not occur and references an endorsement of a Note that is not valid?*
8. *Would the misrepresentation of a transfer and endorsement in a legal document constitute fraudulent behavior?*
9. *Are there legal ramifications for presenting evidence that contains misrepresentations?*

10. *How do the courts determine whether a misrepresentation in evidence rises to the level of fraud?*
11. *How do the courts differentiate between a void Assignment and fraud?*
12. *When do void Assignments be construed as an attempt to commit fraud?*
13. *Can two Lost Note Affidavits, each indicating that a Note was lost in a different state, with involvement from different companies and individuals, be considered reliable evidence in court proceedings?*
14. *Do discrepancies between Lost Note Affidavits, such as variations in the location, company, and individual associated with the loss of the Note, affect their validity and credibility in establishing ownership rights?*
15. *How do courts assess the credibility and reliability of Lost Note Affidavits when they provide conflicting accounts of the circumstances surrounding the loss of a Note?*
16. *Is it reasonable to rely on Lost Note Affidavits as conclusive evidence of ownership rights when they offer inconsistent narratives about the loss of the Note?*
17. *What legal principles guide the use of conflicting Lost Note Affidavits in determining ownership rights in court proceedings?*
18. *How do courts weigh the credibility and reliability of evidence when it includes inconsistencies and discrepancies, such as conflicting accounts of how a Note was lost?*
19. *Is it reasonable to rely on evidence that contains errors and contradictions to determine ownership rights in a legal dispute?*
20. *What standards must evidence meet to be considered sufficient to establish preponderance of evidence in court proceedings?*

21. *What factors should be taken into account when assessing the probative value of evidence that includes unendorsed Notes, false statements in Assignments of Deed of Trust, and conflicting accounts in Lost Note Affidavits?*
22. *Can a Lost Note Affidavit filed by Bank of America provide an accurate account of what happened to a Note while it was under the control of Countrywide, prior to Countrywide's acquisition by Bank of America without corroboration of an expert witness in deposition or trial?*
23. *Is it reasonable to expect a Lost Note Affidavit to detail the events surrounding the loss of a Note during the period when it was held by a different company, such as Countrywide? Would the current holder or servicer of the Note (Bank of America), who may not have direct knowledge of events that occurred before their involvement, be able to testify about events that happened while in possession of Countrywide?*
24. *Can Lost Note Affidavits such as the 2014 Bank of America Lost Note Affidavit, give reliable recounting of historical events that happened eight years before the Lost Note Affidavit was filed?*
25. *How do courts assess the credibility and reliability of Lost Note Affidavits when they attempt to provide information about events that occurred prior to the filing institution's ownership or control over the Note?*
26. *What legal principles govern the extent to which a Lost Note Affidavit can provide accurate and admissible information about the history of a Note's ownership and possession?*
27. *Should Lost Note Affidavits be considered authoritative sources of information about events that occurred prior to the filing institution's involvement with the Note?*

28. Can an unendorsed Note that has been highly redacted be used to prove ownership rights? Especially when it was supposed to have been endorsed according to an Assignment of Deed of Trust but wasn't?

29. Is it negligent to file two Lost Note Affidavits? Is a bank negligent by losing a Note? Is it negligent by failing to file a declaratory case right after they file a Lost Note Affidavit or after they actually lost the Note 13 years before? Can a homeowner claim damages for being left in limbo for years about the ownership of a Note?

30. Would bank failure to fulfill the duty to safeguard a Note be construed as negligence, especially if the loss leads to adverse consequences for the homeowner, such as long legal disputes or financial ruin by having to defend oneself pro se for over 5 years?

31. Can a court impose disciplinary actions and damages to banks for failing to introduce themselves as the owner of a Note for over a decade?

32. Can a bank charge hundreds of thousands of dollars during the time they failed to file for declaratory relief, leaving the homeowner in legal limbo and unable to purchase other homes, refinance to a lower interest, sell or refinance? Can they charge the homeowner five years of legal fees for a declaratory relief case they were supposed to file as soon as they lost the Note?

33. If the bank's failure to file for declaratory relief resulted in prolonged legal limbo for the homeowner, preventing them from purchasing other homes, refinancing at a lower interest rate, or selling their current property, may it be considered a breach of duty or negligence on the part of the bank? In such cases, may the homeowner have legal grounds to challenge the bank's actions and seek remedies for any resulting harm or financial losses?

34. *Can a bank enter a bankruptcy after it has been filed with other banks as mortgage holders, file an Assignment of Deed of Trust, and never tell the homeowner that their loan has changed hands, even if it's required by law?*
35. *Is it permissible for a bank to enter a bankruptcy after other banks have been filed as mortgage holders, file an Assignment of Deed of Trust, and fail to inform the homeowner that their loan has changed hands?*
36. *What legal obligations does a bank have to inform homeowners of changes in loan ownership, especially following a bankruptcy filing and the subsequent Assignment of Deed of Trust?*
37. *How do courts determine whether a bank's failure to disclose changes in loan ownership constitutes a violation of homeowners' rights or legal obligations?*
38. *What recourse do homeowners have if they discover that their loan has changed hands without their knowledge or consent?*
39. *Should banks be held accountable for failing to notify homeowners of changes in loan ownership, particularly following significant events such as bankruptcy filings?*

LIST OF PARTIES

[x] All parties appear in the caption of the case on the cover page.

[] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows

RELATED CASES

CASES PETITIONER:

Two Lost Note Affidavits contradict each other:

Deutsche Bank Nat. Trust Co. v. Anderson,
161 A.D.3d 1043 (N.Y.App. Div. 2018)

Failed to satisfy description/circumstances of Loss Notes:

Ventricelli v. DeGennaro, 221 A.D.2d 231, 232, 633 N.Y.S.2d 315

U.S. Bank N.A. v. Cope,
2018 WL 6626497 (N.Y. App. Div. (Dec. 19, 2018)

Proof:

Marrazzo v. Piccolo, 163 A.D.2d 369, 558 N.Y.S.2d 103
US Bank N.A. v Richards, 155 AD3d 522, 524 [2017]

Void Assignments:

Yvanova v. New Century Mortgage Corp., No. S218973 (Cal. Feb. 18, 2016).

Glaski v. Bank of America, 218 Cal. App. 4th 1079 (2013)

Jenkins V. JPMorgan Chase Bank, N.A.,
216 Cal. App.4th 497 (2013)

Culhane v. Aurora Loan Services of Nebraska,
708 F.3d 282 (1st Cir. 2013)

Judicial Estoppel:

NOLM, LLC V. Cty. of Clark, 120 Nev. 736 (2004)

Marcuse v. Del Webb Communities, 123 Nev. 278 (2007)

Affidavits Standards:

Laman v. Nevada Real Estate Advisory Commin,
95 Nev. 50 (1979)

Proof of Claim:

In re Enron Corp., 419 F.3d 115 (2d Cir. 2005)

Mich. Funds Admin. v. DPH Holdings Corp. (In re DPH Holdings Corp.), 494 F. App'x 135 (2d Cir. 2012);

In re Barquet Group, Inc., 477 B.R. 454 (S.D.N. Y. 2012)

Findings of Facts Accuracy:

Saavedra-Sandoval v. Wal-Mart Stores, Inc., 126 Nev. 592 (2010)

Summary Judgment/ material fact:

Buhecker v. R.B. Petersen Sons, 112 Nev. 1498 (1996)

Caughlin Homeowners Ass'n v. Caughlin Club
Nev. 264 (1993)

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Nevada sues Bank of America for recommending defaults in order to modify:

Nevada v. Bank of America Corp., 672 F.3d 661

Other:

Excellence Cnty. Mgmt., LLC v. Gilmore, P44
351 P.3d 720 (Nev. 2015)

CASES DEFENDANT:

Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005)

Jones v. U.S. Bank Nat'l Ass'n, 136 Nev. 129, 131, 460 P.3d 958, 961 (2020)

Davis u. U.S. Bank, Nat'l Ass'n, No. 56306, 2012 WL 642544, at *1 n.3 (Nev. Feb. 24, 2012)

Hosseini v. Wells Fargo Bank, N.A., No. C-13-02066 DMR, 2013 WL 4279632, at 3* (N.D. Cal. Aug. 9, 2013)

Galvan v. Nationstar Mortg., LLC, No 76214-COA, 2020 WL 3970205, at *4 (Nev. Ct. App. July 13, 2020)

Wood, 121 Nev. at 732, 121 P.3d at 1031

Zakarian v. Option One Mortg. Corp., 642 F. Supp. 2d. 1206, 1213 (D. Haw. 2009)

Edelstein v. Bank of N. Y. Mellon, 128 Nev. 505, 523-24, 286 P.3d 249, 261- 62 (2012)
Edelstein, 128 Nev. at 524, 286 P.3d at 261-62;

In re Montierth, 131 Nev. 543, 548, 354 P.3d 648, 651 (2015)
In re Montierth, 131 Nev. at 548, 354 P.3d at 651.

Jackson v. Mortg. Elec. Registration Sys., Inc., 770 N.W. 2d 487, 491 (Minn. 2009)

Wyeth v. Rowatt, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010)

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Two Lost Note Affidavits contradict each other: Deutsche Bank Nat. Trust Co. v. Anderson, 161 A.D.3d 1043 (N.Y.App. Div. 2018)	Page 7, 18, 38
Failed to satisfy description/circumstances of Loss Notes: <i>Ventricelli v. DeGennaro</i> , 221 A.D.2d 231, 232, 633 N.Y.S.2d 315	Page 39
U.S. Bank N.A. v. Cope, 2018 WL 6626497 (N.Y. App. Div. (Dec. 19, 2018)	Page 39
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Void Assignments: Yvanova v. New Century Mortgage Corp., No. S218973 (Cal. Feb. 18, 2016).	P.19,29,30
Glaski v. Bank of America, 218 Cal. App. 4th 1079 (2013)	P. 29, P. 30
Jenkins V. JPMorgan Chase Bank, N.A., 216 Cal. App.4th 497 (2013)	P. 30
Culhane v. Aurora Loan Services of Nebraska, 708 F.3d 282 (1st Cir. 2013)	P.30
Judicial Estoppel: NOLM, LLC V. Cty. of Clark, 120 Nev. 736 (2004)	P.39
Marcuse v. Del Webb Communities, 123 Nev. 278 (2007)	P.39

STATUTES AND RULES OTHER

NRS 104.3309

1. A person not in possession of an instrument is entitled to enforce the instrument if:(a) The person seeking to enforce the instrument:(1) Was entitled to enforce the instrument when loss of possession occurred; or(2) Has directly or indirectly acquired ownership of the instrument from a person who was entitled to enforce the instrument when loss of possession occurred;(b) The loss of possession was not the result of a transfer by the person or a lawful seizure; and(c) The person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.2. A person seeking enforcement of an instrument under subsection 1 must prove the terms of the instrument and his or her right to enforce the instrument. If that proof is made, NRS 104.3308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

NRS 104.3309

Added to NRS by 1993, 1244; A 2005, 1999Added to NRS by 1993, 1244; A 2005, 1999

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix to the petition and is

[] reported at _____ ; or,

[] has been designated for publication but is not yet reported; or,

[] is unpublished.

The opinion of the United States district court appears at Appendix 2 to the petition and is:

[] reported at _____ ; or,

[] has been designated for publication but is not yet reported; or,

[x] is unpublished.

(P.1)

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix 1 to the petition and is:

[] reported at _____ ; or,

[] has been designated for publication but is not yet reported; or,

[x] is unpublished.

The opinion of the Nevada Court of Appeals at Appendix 1 to the petition and is:

[] reported at _____ ; or,

[] has been designated for publication but is not yet reported; or,

[x] is unpublished. 1.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was
_____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date _____: , and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A . The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from state courts:

The date on which the highest state court decided my case was February 26th, 2024.

A copy of that decision appears at Appendix 1.

A timely petition for rehearing was thereafter denied on the following date _____: , and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to _____ and including (date) on _____ (date) in Application No. ___A _____. The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

What is the constitutional right to protect your property?

The Fifth Amendment protects the right to private property in two ways. First, it states that a person may not be deprived of property by the government without “due process of law,” or fair procedures. In this case, Lissette Napoleoni is about to lose her home and her constitutional rights are violated as she did not get adequate process of law in district court. By the court's ruling and defending Deutsche Bank National Trust, even when the bank didn't defend itself in court, even when the evidence wasn't authenticated, even after years of negligence and overcharging, the courts are giving away her home without having properly gone through a trial, which every American citizen deserves. The courts have ignored 20 years of negligence on behalf of banks and failed to discipline them, and instead opted to defend the indefensible erroneous and botched evidence they had provided after years of leaving Lissette Napoleoni stranded in her home, considered a zombie home.

Case Statement

Your Honors,

The core issue in this declaratory relief case traces back to the loss of Lissette Napoleoni's Note by banks shortly after she signed a predatory Adjustable Rate Mortgage (ARMs) loan in 2006. This negligence on the part of the banks not only plunged her into years of uncertainty as she strived to obtain a 30-year fixed loan modification through the bankruptcy court system in 2010 but also led to further complications, culminating in her home becoming a "zombie home." for a decade.

The loss of the Note not only created a legal quagmire but also exacerbated the financial and emotional turmoil endured by Lissette Napoleoni. It highlights the devastating consequences that can arise from negligence and mismanagement within the banking industry, especially in the context of predatory lending practices.

This case serves as a stark reminder of the real-world impact of financial institutions' actions on the lives of individuals and communities. It underscores the need for accountability and transparency within the banking sector to prevent similar injustices from occurring in the future.

As this case unfolds, it becomes evident that the pursuit of justice extends beyond legal proceedings—it is also about seeking redress for the harm inflicted and working towards systemic reforms to prevent such injustices from recurring (P.5)

Living in a Zombie Home since 2014, Going to trial in 2019

Lissette Napoleoni's ordeal reached a critical juncture when Deutsche Bank National Trust initiated a declaratory legal case in 2019, filing for relief in Clark County, Nevada. This legal action followed years of Lissette Napoleoni residing in what had become known as a "zombie home," a distressing consequence stemming from the Lost Note Affidavit submitted by Bank of America around 2014. In this case, Deutsche claimed to have filed an Assignment of Deed of Trust in 2010, though they waited to introduce themselves by letter to Lissette Napoleoni until 2017. After recognizing bank negligence by claiming losing Lissette Napoleoni's Note and seeking ownership rights, the case began its course.

Documents with No Evidentiary Value - An Unendorsed Note, three erroneous Assignments of Deed of Trust and two contradictory Lost Note Affidavits

At the heart of the matter lies a collection of documents purportedly supporting the Bank's claim, yet upon close examination, reveal a troubling series of irregularities and discrepancies that strike at the core of mortgage law legal principles.

The Bank submitted an unendorsed Note as evidence, accompanied by an 2010 Assignments of Deed of Trust riddled with erroneous information. Lissette Napoleoni filed two other Assignments of Deed of Trust she found in the Records (P.6)

office, both which seemed to be photocopies of each other, both riddled with errors and one with a different owner. Regardless of the existence of these Assignments, the Mortgage Electronic Registration Systems (MERS) website (appendix 3), under Lissette Napoleoni's parcel number, failed to corroborate any of the purported transfers outlined in the Assignments of Deed of Trust. The absence of corroborating evidence from MERS raises serious doubts about the legitimacy of the purported transfers outlined in these assignments. Furthermore, the 2010 Assignment of Trust falsely asserted endorsement by a previous entity, IMPAC, despite the unendorsed nature of the note found in the 2010 bankruptcy records. These records, marred by pen corrections, contradicted by the MERS website, showing a lack of a notary public present and lacking authentication by the court system by trial, fail to give one piece evidence that Deutsche ever acquired the Note.

Compounding these discrepancies, Deutsche Bank National Trust submitted a Lost Note Affidavit from Select Portfolios, while Lissette Napoleoni presented a conflicting affidavit from Bank of America she had saved over the years, each alleging differing states, individuals, and years of loss regarding the same note. Legally speaking, both Lost Note Affidavits cancel each other out, unless a different source of information would specify that the Note was found before it was lost again (Deutsche Bank Nat. Trust Co. v. Anderson). The Bank of America Lost Note Affidavit doesn't even mention that before Bank of America, Countrywide served as servicer, and before that, for a very short time IMPAC, and it fails to say which of these entities lost it during 2006-1014. (P.7)

No trial, no authentication of documents filled with blatant errors before making a judicial decision

Of utmost concern is the glaring fact that none of the evidence put forth by Deutsche Bank National Trust was properly authenticated. None of the documents underwent the rigors of trial scrutiny, expert examination, or witness corroboration. In essence, they lack the essential safeguards that our legal system demands to distinguish truth from falsehood.

Furthermore, their accuracy went unchecked and their veracity and legitimacy remains uncertain, Lissette Napoleoni pointed out all the reasons a trial was required in her motions as she explained in detail that the evidence offered by Deutsche Bank National Trust contained errors.

It is impossible to make a sound judicial decision based on evidence that is not authenticated and lacks the necessary scrutiny and validation.

The preponderance of Evidence does not support Deutsche Bank National Trust claims

Despite the ruling of the Court of Appeals in favor of Deutsche Bank National Trust, we respectfully submit that the preponderance of evidence in this case leads to a vastly different conclusion. Contrary to the appellate decision, a thorough examination of the evidence reveals a troubling pattern of inconsistencies and inadequacies that undermine the Bank's claims. (P.8)

Firstly, the preponderance of evidence demonstrates that the Note in question was never endorsed to Deutsche Bank National Trust. Not even the modification Lissette Napoleoni signed in 2012, signed after the 2010 Assignment of Deed of Trust, had Deutsche Bank's National Trust name. This critical detail calls into question the Bank's purported ownership of the mortgage and casts doubt on the validity of their claim.

In light of these glaring discrepancies, we assert that the preponderance of evidence points unequivocally to the conclusion that Deutsche Bank National Trust's claims are unfounded. The appellate decision, therefore, stands in stark contradiction to the weight of the evidence presented. We respectfully urge this Honorable Court to reconsider the merits of the case in light of the overwhelming evidence that undermines Deutsche Bank National Trust's claim to ownership of the mortgage in question.

A Chronology of Events:

1. The 2008 financial crisis stands as one of the most significant economic catastrophes in modern history. Many lenders engaged in steering minority borrowers such as Lissette Napoleoni towards disadvantageous loans or misleading borrowers about the terms and risks of their loans, all in pursuit of higher fees and commissions.

(P.9)

2. IMPAC IS THE MORTGAGE HOLDER AND SERVICER, (FOLLOWED BY COUNTRYWIDE AS SERVICER, AND THEN BANK OF AMERICA) Lissette

Napoleoni, a dedicated teacher and artist in the United States, found herself ensnared in a web of predatory lending when she obtained an ARMs mortgage in December 2006 through IMPAC, the company that would become her mortgage holder. IMPAC started servicing her loan, followed by Countrywide shortly after. What happened to her Note after she signed with IMPAC remains a mystery, as Bank of America (which later would acquire Countrywide) has stated in a Lost Note Affidavit that the Note can't be accounted for since December 2006-when Lissette signed). Meaning Bank of America may have never had the Note either.

3. Many homeowners, including Lissette Napoleoni, were lured into accepting adjustable-rate mortgages (ARMs) by agents who were incentivized by hefty commissions to persuade families into commercial loans. ARMs loans benefit third parties to the detriment of families and are meant for companies, as they are much more structured to weather extreme rate changes.

4. Deutsche Bank is not a mortgage banker, but a trustee for IMPAC Securities that will later want to switch into the lender position.

5. Once trapped in the machinery of an ARMs loan, Lissette, and countless other minorities, faced significant barriers in accessing legal resources to challenge unfair or deceptive lending practices.

(P.10)

6. Interest rates go up and so do ARMs payments. Many families found themselves unable to sustain their mortgage payments, forcing them to abandon their homes. All of these problems in the housing financial system brought out the 2008 crash.

7. Bailouts helped banks and investors but didn't reach most homeowners trapped in bad loans, high interest and underwater homes.

8. After investors are paid off by bailouts, trustees find themselves with mortgages that have been paid off by investors.

9. Following the government bailouts aimed at stabilizing the financial system, Wall Street investors recovered their investments through funds provided by banks. As a consequence, the trustees of these Wall Street securities allegedly found themselves in possession of mortgage contracts that were effectively endorsed as being paid off by the investors.

10. Trustees assign homes to themselves failing their fiduciary duty toward beneficiaries.

11. Shredding of mortgage documents by Countrywide In a disturbing turn of events, it has come to light in many newspaper articles and court depositions that banks instructed Countrywide employees to shred mortgage documents. Testimony from Countrywide employees in court proceedings provides well-documented evidence of this egregious practice.

(P.11)

12. No payment receipts, the creation of Assignments and Lost Note

Affidavits With no payment receipts for the homes and lacking endorsements to claim ownership, the trustees of these Wall Street securities resorted to dubious tactics to assign the homes to themselves and have failed many times in court proceeding to establish ownership rights.

13. Denying modifications Adding to the plight of homeowners already ensnared in the aftermath of the 2008 financial crisis, banks, including Deutsche Bank National Trust, systematically denied modifications of adjustable-rate mortgages (ARMs). They specifically denied Lissette Napoleoni of modifications even though she was underwater after the 2008 crash.

14. Deutsche relinquished position as trustee in 2010 and became mortgage holder in a bid to further their financial interests (but still call themselves trustees)

15. Filing bankruptcy to escape predatory lending

In an attempt to escape predatory lending, Lissette Napoleoni sought relief through a Chapter 13 bankruptcy filing in 2010. Despite her efforts to secure a 30-year loan modification allegedly guaranteed through bankruptcy, she was given a 5 year fixed modification instead. Lissette Napoleoni explored other options under the Obama administration's modification programs, but she was met with denial and frustration. During this tumultuous period of 2013, Lissette faced additional personal challenges, including a divorce, partly influenced by the 2008 crash. Faced with mounting financial pressure. Lissette made the difficult decision (P.12)

to release the property through bankruptcy proceedings, even though she filed bankruptcy to keep her home and ruined her credit trying to get a modification that the bank denied. Keeping her property was something she fought for years unsuccessfully.

16. 2014 and beyond - the Zombie homes Around 2014, Bank of America issued a Lost Note Affidavit, suggesting that the mortgage note for Lissette Napoleoni's home may have been lost since 2006. This declaration marked the beginning of what has become known as the 'zombie home' stage for Lissette and potentially countless others across the nation. These 'zombie homes,' including Lissette Napoleoni's property, are caught in a legal limbo, unable to be foreclosed upon due to the Lost Note Affidavits created by banks seeking to retain control over homes that were purportedly paid off by investors. The issuance of Lost Note Affidavits by banks further exacerbates the plight of homeowners like Lissette. It highlights the tactics employed by banks to prolong the foreclosure process. In this 'zombie mortgage' stage, Lissette's home became a financial burden, as she remained liable for any damages and maintenance expenses, yet was unable to sell the property or execute a deed in lieu of foreclosure. Her attempts to secure alternative housing were thwarted by the stigma of having a 'zombie home' on her record, preventing her from taking advantage of cheaper homes in the wake of the 2008 crash. Additionally, she was unable to benefit from lower interest rates, further exacerbating her financial hardship. Bank of America inexplicably vanished from the scene in 2016, years after declaring her mortgage note lost. Lissette Napoleoni (P.13)

struggled to make sense of her situation without answers from either Bank of America or the subsequent loan servicing company, Select Portfolios. It wasn't until 2019 that Deutsche Bank National Trust finally took action, opting to assert ownership rights with a tangled web of paperwork associated with the Wall Street securities debacle.

REASONS WHY TO GRANT THE WRIT

Dear Honorable Justices,

I am writing to implore the esteemed members of the US Supreme Court to consider taking on my case, which pertains to convoluted and missing mortgage notes that have plunged my home situation into a state of limbo. My ordeal is not unique; countless individuals across the nation have fallen victim to banks losing crucial paperwork or engaging in fraudulent practices, resulting in homes being ensnared in legal and financial uncertainty.

REASON 1: A NATIONAL PROBLEM OF MISSING PAPERWORK AND ZOMBIE HOMES

In Appendix C, I have included an article written online by a California lawyer, where he clarifies the issue of "zombie homes" in California and across the United States. This article sheds light on the challenges faced by homeowners who, after the 2008 crash, encountered financial burdens stemming from the housing crisis. Many of these homeowners, including myself, were compelled to file for bankruptcy, (P.14)

only to find themselves trapped in a cycle of legal and financial turmoil when their homes were not foreclosed upon following bankruptcy proceedings. Here's an excerpt of Mr. Brian Barta (Appendix 4):

"Zombie properties are properties in foreclosure that still belong to the original homeowner because the bank failed to complete the foreclosure. In 2013, The Huffington Post reported that there were more than 300,000 such properties in the U.S., with at least 28,000 located in California. Homeowners who leave their homes prior to foreclosure usually assume the process will be completed. When foreclosure stalls, homeowners often have no idea they are still responsible for their properties. Unfortunately, ownership of a zombie property can lead to all kinds of financial and legal complications, due to the following factors: Homeowners are still responsible for paying taxes or bills associated with the property. Many homeowners mistakenly believe that they cannot still own a home if they have filed for bankruptcy and discharged the debt associated with the home. However, USA Today reports that this is not the case. People who are working on rebuilding financially after filing for bankruptcy may still learn they are responsible for extensive costs associated with a home they thought they had lost. Homeowners considering bankruptcy should understand that they might remain financially attached to a home, even if the home is part of the property liquidated during the bankruptcy. Homeowners must take precautions to ensure that foreclosure is completed and the title is transferred. Considering the financial risk associated with banks failing to foreclose, homeowners may even want to consider alternatives to giving up their homes, such as filing for Chapter 13 bankruptcy, which can allow individuals to keep their homes and repay their debts."

After spending five years in court trying to resolve the issue of Lost Notes, Lissette Napoleoni could encounter a cycle of bankruptcies. The first bankruptcy was initiated in an attempt to modify her predatory adjustable-rate mortgage (ARM), (which was not modified to a 30-year fixed loan after all that hard work) yet now (P.15)

she finds herself on the brink of a second bankruptcy. This second filing is necessitated by the staggering sum of over \$236,000 that the bank has accrued against her during the prolonged "zombie" status of her property, when she couldn't buy other properties, leave her home, refinance or sell legally.

During this period of legal and financial limbo, the bank has relentlessly charged exorbitant fees, including accrued interest and legal expenses, further exacerbating Napoleoni's financial distress. These fees have accumulated during the time when the bank failed to foreclose on the property and throughout the protracted legal battles aimed at asserting homeowner's rights.

Legal Fees Too

Lissette Napoleoni has also been burdened with the responsibility of covering Deutsche Bank National Bank's legal fees, which have accumulated during the period when the bank failed to foreclose on her property and during the subsequent legal proceedings aimed at asserting homeowner's rights. Despite the bank's admission of negligence through the filing of a Lost Note Affidavit, Napoleoni has been unjustly charged for over five years of legal fees by an entity that lacks legal ownership rights and allegedly lost her Note in 2006. And she had to spend five years in court pro se! This has distracted her from fulfilling her own career goals. It has affected her earning potential. It has negatively affected her health as she has live in a never ending cycle of legal and financial stress and uncertainty at 56 years old. It has impacted her relationship with clients, family and friends who have also (P.16)

been affected by the deep stress and lack of time Lissette Napoleoni faces every day to do the most minimal of daily tasks. Furthermore, Napoleoni has been subjected to a myriad of additional fees, none of which are accounted for in any official documentation. These charges mysteriously accrue every month, further eroding any equity she may have had in her home.

REASON 2: ERRORS:

Moreover, Lissette Napoleoni must bring to the Court's attention the errors made by the Nevada Court of Appeals in my case. The Appeals Court failed to mandate the district court to conduct a trial to authenticate erroneous evidence and address the issue of missing mortgage notes before rendering a decision on bank ownership rights. This oversight has grave implications not only for my case but for the broader legal landscape, where justice must be upheld through rigorous scrutiny and adherence to due process.

By accepting my case, the US Supreme Court has the opportunity to rectify these systemic injustices and set a precedent that safeguards the rights of homeowners nationwide. The ramifications of your decision extend far beyond my individual circumstances; they have the potential to reshape the legal framework governing mortgage ownership rights and ensure that the interests of homeowners are protected against the overreach of financial institutions. (P.17)

REASON 3:**STATE COURTS IN DISAGREEMENT**

Lissette Napoleoni has brought up to the attention of the court and throughout her writ, the fact that court state cases are in opposition to each other. Lissette Napoleoni presents numerous cases in her argument that cite state courts which do not tolerate vague Lost Note Affidavits, many of those she references on Page 52 of this writ. However, Nevada's stance appears to be markedly different, as they assert that their standards for Lost Note Affidavits are lax (if not nonexistent).

For instance, Nevada's reliance on their 2021 case *Jones v. U.S. Bank Nat'l Ass'n*, 136 Nev. 129, 131, 460 P.3d 958, 961 (2020) as a point of comparison to Lissette Napoleoni's court case is misplaced, as the two cases present distinct circumstances. The Nevada case pertains to a bank misplacing a single Note, whereas Napoleoni's case involves the filing of two conflicting Lost Note Affidavits by the bank. These disparate scenarios give rise to different legal inquiries concerning the veracity of the bank's actions, potential implications of fraud, and the legitimacy of their ownership claims. Thus, attempting to draw parallels between these cases overlooks the nuanced complexities inherent in Napoleoni's situation. The only case that even comes close to Lissette Napoleoni's case is as follows: *Deutsche Bank Nat. Trust Co. v. Anderson*, 161 A.D.3d 1043 (N.Y.App. Div. 2018). This is nearly a doppelganger of a case, except that in Lissette Napoleoni's case, there's even more chaotic paperwork that includes the Assignment of Deed of Trust. (P.18)

If there are no established standards governing Lost Note Affidavits, the integrity of the legal process comes into question. If banks are permitted to misplace ownership documentation without accountability or explanation, the essence of due process is undermined. Such leniency could potentially set a dangerous precedent, paving the way for widespread fraud, confusion regarding property ownership, and an influx of foreclosures. In this scenario, banks could easily manipulate the system to their advantage by simply submitting vague or unsubstantiated Lost Note Affidavits, further exacerbating the vulnerability of homeowners. As we drift towards a landscape devoid of regulatory safeguards, the ability of individuals or entities to challenge such practices diminishes significantly. Ultimately, this erosion of legal standards not only jeopardizes the security of homeowners but also poses a threat to the very foundation of our judicial system.

The same argument extends to Assignments of Deed of Trust. In their decision, the Nevada Court of Appeals references cases that assert homeowners generally lack the standing to challenge Assignments. However, Lissette Napoleoni cites cases such as *Yvanova v. New Century Mortgage Corp.*, No. S218973 (Cal. Feb. 18, 2016), which contend that discrepancies in Assignments can indeed be challenged by homeowners, as these irregularities may have significant repercussions in the long term. Napoleoni's own experience spanning two decades serves as a poignant [\(P.19\)](#)

illustration of how inaccuracies in documentation can precipitate a myriad of issues, as detailed extensively throughout the writ.

In conclusion, I urge the US Supreme Court to grant certiorari in my case, recognizing its significance in addressing a pressing national issue and delivering justice to countless individuals who find themselves ensnared in the quagmire of mortgage disputes. Your decision to hear this case will not only bring clarity and resolution to my situation but will also serve to help homeowners across the country who are grappling with similar challenges.

Thank you for considering this plea,

Sincerely,

Lissette Napoleni

Errors by the Court of Appeals:

Error number 1.

The Court of Appeals' initial mistake is affirming Deutsche Bank National Trust as the prevailing party based on the preponderance of evidence. It's imperative to address that the preponderance of evidence presented by Deutsche Bank (an Assignment of Deed of Trust, a Lost Note Affidavit and an unendorsed Note) is riddled with errors and hasn't undergone proper authentication through the legal trial process. Here are the reasons explaining why none of the evidence (P.20)

can be used to prove preponderance of evidence in favor of Deutsche Bank National Trust. Instead, they serve to demonstrate that the opposite is true, the preponderance of evidence is invalid:

1. It appears that the **2010 Assignment of Deed of Trust** has multiple flaws and inconsistencies that undermine its credibility and validity. Here's a summary of the issues:

A. **2010 Assignment of Deed of Trust is not reflected on MERS website (Appendix 3):** The transfer mentioned in the assignment does not appear on the MERS website under Lissette Napoleoni's parcel number. A MERS transfer page filed by Lissette Napoleoni during the course of this declaratory trial, displays two transfers executed by MERS to her parcel number.

Notably, none of these transfers originated from IMPAC to Deutsche Bank National Trust. This indicates that even MERS does not possess evidence supporting the alleged 2010 transfer in the 2010 Assignment of Deed of Trust. This raises doubts about the authenticity of the transfer and its legality.

B. **Failure to meet MERS handbook requirements:** Lissette Napoleoni provided information and charts demonstrating that the Assignment/transfer did not meet the requirements outlined in the MERS handbook for a legitimate transfer. Assignments of Deed of Trust deviate from MERS procedures for documentation. This raises suspicions about the authenticity of any information related to MERS transactions. MERS is extremely strict (P.21)

C. with their authentication rules in order to avoid falsification. Lissette Napoleoni has diligently highlighted these errors on multiple occasions and in several motions.

D. **Note not endorsed:** Despite the 2010 Assignment of Deed of Trust stating that Lissette Napoleoni's Note would be endorsed, the copy of the Note presented in bankruptcy court in 2010 is not endorsed. This inconsistency raises questions about the accuracy of the assignment's statements.

E. **Errors in the actual Assignment:** The assignment also contains errors such as the wrong loan number and other mistakes, which further diminish its reliability and usefulness as evidence.

F. **Deutsche filed three Assignments in different years.** Two of the assignments seem to be robosigned, meaning the assignments are identical (as in photocopied) but just one piece of information was exchanged. Some of them had the wrong parcel and wrong loan number, and even the wrong name. Definitely, the amount of errors on all of the Assignments cast doubts that any of them have been done in the presence of a notary public.

G. Some information in these Assignments have been redacted and other information has been written in pen.

H. Virtually nothing in the Assignment of Deed of Trust is accurate except for Lissette Napoleoni's name.

2. Deutsche filed A 2017 Select Portfolios Lost Note Affidavit. But, Lissette Napoleoni went ahead and filed a 2014 Bank of America Lost Note (P.22)

Affidavit and what a surprise must have been for Deutsche Bank National Trust that Lissette Napoleoni kept that affidavit for years, which had different information as to when, where and who lost the Note. These two Affidavits cancel themselves out as there's no explanation filed indicating that the Note was found, later to be lost again.

3. Having a blank copy of a Note does not mean Deutsche is the owner: There's a copy of Lissette Napoleoni's Note in the Records office of Clark County, which may be the way they obtained a copy. Or maybe, as trustees of the IMPAC securities, they may have access to it. But the 2010 Assignment of Deed of Trust says the Note would be endorsed by IMPAC and is not, so this unendorsed Note (to any entity at all) is also useless evidence.

Conclusion of Error 1:

Given that Deutsche Bank National Trust possesses an unendorsed copy of a Note, Assignments of Deed of Trust riddled with errors and two contradictory Lost Note Affidavits as evidence, none which has been properly verified, it's obvious that Deutsche Bank National Trust failed to meet the preponderance of evidence test. This lack of substantial and preponderance of evidence supporting their ownership rights necessitates the dismissal of the case with prejudice.

This substantiates that no transaction occurred between IMPAC and Deutsche Bank National Trust, thereby explaining Deutsche Bank National Trust's inability to produce any payment receipts proving the purchase of the mortgage.(P.23)

This underscores the necessity for the case to undergo the proper process of authentication to ensure the validity of the evidence presented. Deutsche Bank National Trust's failure to defend their own case in the Court of Appeals and the fact that they dragged their feet in district court missing hearings and failing to comply with rules several times, could have constituted grounds for dismissal of the entire case. Instead, the Court of Appeals dedicated eleven pages to defending unauthenticated evidence replete with errors, attempting to establish connections and details that would confer ownership rights upon Deutsche Bank National Trust. At times, the Court of Appeals has characterized mistakes as part of a void Assignment, but if there isn't any correct information in an Assignment, the Court of Appeals should have considered it either fraud, or paperwork that had no evidentiary value and had to be thrown out. However, it is evident throughout their affirmation that time after time the Court of Appeals is missing the elephant in the room, that the primary pieces of evidence in this case cannot be trusted to infer any kind of decision as they have errors, don't have proof of transfer or endorsement, and haven't been authenticated by due legal process.

Moreover, the Court of Appeals acknowledges errors within the Assignment of Deed of Trust. Therefore, it's perplexing that they would base a decision on a specific piece of information from the same Assignment (a MERS transfer), implying its correctness despite the presence of numerous errors throughout the document. Despite Lissette Napoleoni's objection to the accuracy of MERS transferring to Deutsche Bank National Trust in 2010, the Court of Appeals persistently assumed (P.24)

that such a transfer occurred from IMPAC to Deutsche Bank National Trust. Lissette Napoleoni even provided a transfer page from MERS (appendix 3) indicating that MERS hadn't executed a transfer since 2006.

None of the non authenticated three error-prone multiple Assignments of Deeds of Trust or the two contradictory Lost Note Affidavits submitted by Deutsche Bank National Trust should be considered sufficient to infer a declaratory decision regarding ownership rights. Such conclusions can only be drawn after thorough scrutiny through discovery, a trial, witness testimony, and expert witness examination. This process is crucial for distinguishing between correct and incorrect information, especially when evidence contains glaring errors in critical information. Therefore, no judge can determine from a cursory glance of unauthenticated documents with blatant errors which information could be used to infer a judicial decision.

Rule 901 establishes the foundation for presenting evidence in court by requiring that it be properly authenticated or identified as genuine. This ensures that the evidence introduced is reliable and trustworthy, contributing to the fairness and accuracy of legal proceedings.

The multitude of defects in Deutsche Bank National Trust's evidence has been meticulously highlighted in motions by Lissette Napoleoni in both the District Court and the Court of Appeals. However, these critical flaws have been unfortunately disregarded by both judicial bodies, despite their direct relevance to pivotal facts necessary for determining ownership rights. (P.25)

Error number 2:

Another error committed by the Nevada Court of Appeals is the downplaying of the significance of an unendorsed Note, failing to recognize its implication as a setback in Deutsche's efforts to establish ownership rights.

Towards the beginning of their affirmation, the Nevada Court of Appeals states: *"In 2010, MERS, on behalf of Impac, executed an assignment of the deed of trust to respondent Deutsche Bank National Trust Company (Deutsche Bank) in which it also indicated that it was assigning the note to Deutsche Bank and had endorsed the instrument."* Contrary to this assertion, Lissette Napoleoni's Note was never endorsed to Deutsche (a 2010 copy is available in bankruptcy court), despite the 2010 Assignment of Deed of Trust stating that the Note would be endorsed by a signature from IMPAC. Therefore, the 2010 Assignment of Deed of Trust cannot be considered a reliable source of information and neither can the Note. Moreover, Deutsche Bank lacks one of the most crucial elements for establishing ownership rights: an endorsed Note. Endorsed Notes have been instrumental in mortgage law for years in substantiating ownership rights in civil cases. The absence of an endorsed Note cannot be justified; rather, it should be used against Deutsche Bank National Trust as they endeavor to establish a preponderance of evidence. Merely filing as evidence an extremely redacted Note, which you can actually find a copy on the Clark County Records, and which Deutsche may have had a copy as a trustee of securities, does not mean that the mortgage loan was ever transferred to them, and there certainly isn't any proof it ever was. (P.26)

Error number 3: The Nevada Court of Appeals validation of Bank of America's Lost Note Affidavit and Select Portfolios' Lost Note Affidavit, despite the need for both documents to be dismissed as evidence. The Nevada Court of Appeals contends that Lissette Napoleoni found both Lost Note Affidavits insufficient, yet this is merely one of the descriptors she uses for both documents. She also criticized the accuracy of both Lost Note Affidavits individually. The crucial point here is that she unequivocally identifies them as inadmissible evidence. And as we can see, the existence of both Lost Note Affidavits defies logic. Select Portfolios cannot assert that Lissette Napoleoni's Note was in their possession in 2017 (and subsequently lost), while Bank of America declared years earlier, in a different state, by a different person, and at a different company, that they lost the Note. This is not only improbable but logically impossible. Moreover, it is incorrect to deem Bank of America's Lost Note Affidavit as factual, as Select Portfolios claims responsibility for the loss of the Note. Similarly, Select Portfolios' Lost Note Affidavit cannot be deemed authentic, as Bank of America has already declared the loss. Hence, both Lost Note Affidavits nullify each other as evidence. Unless there is trial testimony confirming the recovery of the Note after Bank of America's loss, neither Lost Note Affidavit can be admissible in court.

Error number 4:

The Court of Appeals incorrectly assumes that at its worst, Deutsche Bank National Trust's 2010 Assignment of Deed of Trust is possibly voidable due to having some (P.27)

errors. However, it's crucial to note that errors in a document, particularly when it is replete with critical inaccuracies, are an indication of fraud, or at the very least it suggests that the evidence cannot be used to prove ownership rights.

The courts' assumption that a voidable assignment represents the worst-case scenario without conducting a trial and document verification is inadequate. It overlooks the possibility of wrongdoing and deception inherent in extremely erroneous and defective documentation that has persisted since 2006. Failure to address these elements properly leaves room for potential injustice. An assignment can only be declared voidable through the proper legal process. It cannot be deemed voidable through a superficial examination of facts by one party; rather, the information must be verified by witnesses, experts, and other means. Lissette Napoleoni was deprived of the legal process in a courtroom that rigorously verifies evidence. The failure to examine the erroneous evidence during any kind of trial in district court caused errors. This led the Court of Appeals to reject Judge Susan Johnson's judgment in district court. The Court of Appeals had to rely on the preponderance of evidence principle instead, which is also a faulty judgment due to the preponderance of invalid and unauthenticated evidence. This underscores that Lissette Napoleoni should have had a trial, and the lack of one was an injustice. Furthermore, the Court of Appeals inaccurately portrays the extent to which Lissette Napoleoni scrutinized the 2010 Assignment of Deed of Trust and fails to acknowledge that she also presented a record of MERS transfers under her account (appendix 3) which did not include the 2010 Assignment of Deed of Trust. By (P.28)

Lissette Napoleoni asserting that the 2010 Assignment of Deed of Trust transfer did not occur, Lissette Napoleoni is not challenging a void Assignment; rather, she is denying the evidentiary value of such a document and asking for it to be thrown out. The Court of Appeals makes several arguments defending the Assignment as merely voidable, but it is important to point out that these arguments would only hold if the 2010 Assignment of Deed of Trust, accurately provided any truthful information about a transfer, or an endorsement. If an Assignment doesn't provide any information that confirms ownership rights, and pretty much all other information is incorrect except for Lissette Napoleoni's name and a detail or two, then it is of no use in a declaratory case.

The Nevada Court of Appeals goes as far as to reference cases asserting that homeowners lack standing to challenge assignments. However, Lissette Napoleoni would like to reference Yvanova V. New Century Morigage Corp—where the California's stance acknowledges homeowners' rights, recognizing that issues with assignments directly impact their lives. Lissette Napoleoni appreciates this ruling, understanding firsthand the importance of homeowners having avenues to address and contest documentation discrepancies. Such challenges can prevent homeowners from being trapped in "zombie" homes or other complicated situations for extended periods.

Here is information about the arguments found in Yvanova V. New Century Morigage Corp and other similar cases:

The Supreme Court of California held that a borrower on a home loan secured by a deed of trust has standing to base an action for wrongful foreclosure on allegations

that defects in the purported assignment of the note and deed of trust renders the assignment void. Yvanova V. New Century Morigage Corp., No. S218973 (Cal. Feb. 18, 2016). The court walked through the cases which Glaski discussed. In Culhane v. Aurora Loan Services of Nebraska, 708 F.3d 282 (1st Cir. 2013), the First Circuit rejected the broad rule that a borrower lacks standing to challenge an assignment that is void ab initio, finding that the borrower suffers the requisite harm by reason of the enforcement of the note by a non-owner. In Glaski v. Bank of America, 218 Cal.App.4th 1079 (2013), the borrower, like Ms. Yvanova, challenged a foreclosure on the grounds that the deed of trust had been assigned after the trust had closed. The Glask court found that the borrower had a legitimate cause of action so long as she could present facts demonstrating that the beneficiary on whose behalf the trustee TITLE - 5 9 initiated foreclosure was not the true beneficiary. That court determined that when a deed of trust is assigned to a trust after that trust was closed the assignment is void and the borrower has standing to challenge a foreclosure conducted on behalf of the purported assignee. Though fighting for your right to verify an Assignment of Deed of Trust has not always been accepted in a courtroom, Ivanova changed that viewpoint in courts across the United States. In contrast, Jenkins V. JPMorgan Chase Bank, N.A. 216 Cal.App.4th 497 (2013), upon which the appellate court relied, held that a borrower who is in default on the note has no standing to complain about the identity of the party foreclosing because the borrower's rights and obligations are unaffected. The only party harmed is the true beneficiary. The Yvanova court disagreed with Jenkins, finding that Glaski was the better reasoned decision. The issue of the borrower's injury had different significance for purposes of standing than it did for purposes of establishing the elements of wrongful foreclosure. For standing, the harm to the borrower by reason of nonjudicial foreclosure by a nonbeneficiary of the deed of trust was sufficient.

Error number 5: The Court of Appeals fails to see negligence, laches and misconduct.

Deutsche Bank National Trust neglected to send Lissette Napoleoni an introductory letter after their initial Assignment in 2010, as required by law. The failure to inform Lissette Napoleoni of Deutsche Bank National Trust's status as the new owner of the Note was deceptive. If she had been notified in 2010, she would likely have delved into Deutsche's involvement in her bankruptcy. This investigation would have uncovered Deutsche Bank National Trust's did not have an endorsed Note. All these facts would have made Lissette Napoleoni suspicious, (P.30) especially given

that she filed bankruptcy with IMPAC as mortgage holder. Discovering Deutsche Bank National Trust on time could have prompted legal action to resolve the issue of the Lost Note Affidavits from 2010 to 2012. At this time, she could have gone to the Nevada Court system and won a case against Deutsche Bank National Trust. Instead, in a deceptive move, Deutsche Bank National Trust only introduced themselves in 2017 after finally acquiring a servicing company. Lissette Napoleoni had even requested her lawyers to show her the Note before signing a 2012 modification with Bank of America (her mother, a 40- year legal mortgage expert at a law firm insisted on looking at endorsements), but her lawyers claimed her Note was in a vault, failing to admit they filed an unendorsed Note under Detusche's name. The 2022 Judgment brought clarity to Lissette Napoleoni when Deutsche Bank National Trust claimed they were allowed to assume a mortgage position by her lawyers. This revelation was news to Lissette Napoleoni, who only learned about these transactions and discrepancies close to 2022. Deutsche Bank National Trust's silence during this period stemmed from the fact that unendorsed Notes did not benefit them at the time. Nevada courts did not accept unendorsed notes, and Lissette Napoleoni could have potentially won a case in 2012 against Deutsche. Even though Deutsch waited seven years after the 2010 Assignment of Deed of Trust for a formal introduction in 2017 (this was years after Lissette Napoleoni was informed of the lost Note) Deutsche Bank National Trust expected her to open her checkbook to an institution that hadn't legally established its ownership rights through court proceedings. Writing a check to the wrong entity (P.31)

could have catastrophic consequences for a homeowner, especially considering the prevailing confusion regarding Notes and ownership during those years. It's absolutely vital to acknowledge that regardless of any undisclosed dealings done behind her back, Lissette Napoleoni has the right to be informed of the outcome in a timely manner, particularly concerning ownership matters. How can she be expected to know whom to pay if she's kept in the dark about such crucial information?

Error number 6: The Court of Appeals' characterization of Lissette Napoleoni's rights to explore what happened to her Note and to exercise her constitutional rights as whimsical is a mistake.

The Court of Appeals states:

Insofar as Napoleoni relies on the foregoing to assert that the 2010 assignment was fabricated in connection with this litigation, the record is devoid of any evidence showing that the assignment was not properly executed in 2010, and Napoleoni cannot rely "on the gossamer threads of whimsy, speculation, and conjecture" to avoid summary judgment. See Wood, 121 Nev. at 732, 121 P.3d at 1031 (internal quotation marks omitted).

A MERS records page that does not include a transfer/Assignment to Deutsche is not speculation (Appendix 3). An Assignment of Deed of Trust with errors and claiming a Note is endorsed when it is not is not speculation. Those are facts. And those are the only facts that matter in order to confirm ownership rights in an Assignment of Deed of Trust, rendering Deutsche's Assignment useless. It's wrong for the Court of Appeals to be defending error-ridden documents that have caused significant harm and have not been authenticated through the legal system, while (P.32)

simultaneously devaluing Lissette Napoleoni's legal efforts. The Court of Appeals failure to acknowledge the negligence, errors, and rule-breaking by the bank is troubling. It's also wrong that they have not held the bank accountable for failing to attend hearings, for failure to adhere to proper procedures, including the timely submission of documents and judgments and following bank rules. This lack of accountability only serves to compound the injustice faced by Lissette Napoleoni. Moreover, the fact that Deutsche Bank has faced numerous lawsuits after 2008 for fraud, including a fine from the Department of Justice in 2017, underscores the seriousness of Lissette Napoleoni's concerns. Dismissing her legitimate grievances as mere imagination is unjust, specially in light of Deutsche Bank's troubled history. When courts criticize a homeowner, and fail to even recognize or utter the most minimal whisper of negative words toward a negligent bank, it becomes increasingly difficult for individuals like Lissette Napoleoni to obtain the justice they rightfully deserve due to the not so subtle hint of a negative bias against homeowners stuck in Deutsche's rabbit hole of convoluted paperwork.

Error number 7: The Nevada Court of Appeals misinterprets Select Portfolios Lost Note Affidavit words. This is the Nevada Court of Appeals interpretation of Deutsche Bank National Trust filing the 2017 Lost Note Affidavit: *Initially, we disagree with Napoleoni's assertion that the BANA and SPS lost note affidavits were inconsistent, which is premised on the proposition that both servicers purported to have lost the note. Indeed, BANA's lost note affidavit indicates that it acquired possession of the note in 2006 when it began servicing Napoleoni's loan and lost possession of the instrument sometime between 2006 and 2012 when the affidavit was executed, while SPS's lost note affidavit simply indicated that it was the current servicer for Napoleoni's loan in 2017 and had checked its records for the note but could not locate it. Thus, her argument on this point lacks merit.* (P.33)

These are the reasons why the Nevada Court of Appeals is wrong:

1. It is reasonable to expect that an honest company would have submitted the Bank of America Lost Note Affidavit instead of opting for the Select Portfolios Lost Note Affidavit. This is because withholding crucial evidence and substituting it with a different piece of evidence constitutes fraud. Particularly, since it is unlikely for anyone to assume that another company lost the Note before Select Portfolios.

When Deutsche Bank National Trust filed the Select Portfolios Lost Note Affidavit, the natural assumption would have been that Select Portfolios lost it.

2. The revelation that Lissette Napoleoni, rather than Deutsche Bank National Trust, filed the Bank of America Lost Note Affidavit, points to a deliberate attempt by the bank to conceal information and manipulate the legal process to its advantage. This discovery would undoubtedly have come as a shock and disappointment to Deutsche Bank National Trust, as they were caught red-handed withholding vital information, further casting doubt on their integrity and credibility.

3. Filing the Select Portfolios Lost Note Affidavit changes the perception of Deutsche Bank National Trust, creating the impression that they recently lost the Note, rather than highlighting the negligence of having lost it over a decade ago. This misrepresentation not only obscures the extent of their negligence but also unfairly portrays Lissette Napoleoni as resistant to paying, while pretending that the Note was in Deutsche's possession all along. (P.34)

4. Filing the Select Portfolios Lost Note Affidavit incorrectly suggests that Deutsche Bank National Trust was in possession of the Note when it was lost, which is entirely untrue.

5. Filing the Select Portfolios Lost Note Affidavit allows Deutsche Bank National Trust to avoid failing the NRS 104.3309 test that the previous company must have held the Note if Deutsche didn't have it. The Bank of America Lost Note Affidavit lacks clarity on which company was in possession when the Note was lost, prompting Deutsche not to submit it as evidence, as they knew it would likely be thrown out.

6. Filing the Select Portfolios Lost Note Affidavit enables Deutsche Bank to distance themselves from acknowledging over a decade of negligence, potentially avoiding the implications of missing the statute of limitations.

7. Filing the Select Portfolios Lost Note Affidavit effectively diverts attention away from the Bank of America Lost Note Affidavit, which explicitly states that Bank of America did not have possession of the Note and doesn't know its whereabouts since 2006.

Moreover, considering that the initial servicer in 2006 was IMPAC itself, followed by Countrywide, which also hasn't attested to having it, the true possession of the Note remains unverifiable by any company.

Additionally, the excerpt from the Select Portfolios Lost Note Affidavit executed at the premises of Utah Select Portfolio, wherein Kevin Rucci, a Vice President of Select Portfolios testified, indeed presents each sentence in a manner that could be (P.35)

interpreted as if Select Portfolios had possession of the Note at some point. The statement:

"Though it has conducted a diligent search of the records and files maintained in connection with the Mortgage, the company has been unable to locate the Note and believes that the Note has been misfiled or destroyed" implies that Select Portfolios had possession or oversight of the Note. Additionally, the assertion that "The records of the Company do not show that the Note was ever released, paid off, satisfied, assigned, transferred, pledged, hypothecated or that the Note was otherwise disposed of by the Company"

further reinforces the perception that Select Portfolios had the Note. Without explicit clarification indicating otherwise, it's understandable that no one would assume another company lost the Note, especially if Select Portfolios fails to specify that detail and never introduces the Bank of America Lost Note Affidavit.

In addition:

- A. The affirmation that "the company has been unable to locate the Note and believes that the Note has been misfiled or destroyed" implies that Select Portfolios had a duty of care over the Note and was responsible for its safekeeping. This responsibility typically accompanies possession or oversight of the document.
- B. Mr. Kevin's statement indicates that Select Portfolios diligently searched their records and files connected with the Mortgage. Such meticulous record-keeping and search efforts are typically associated with entities that have possession or custodianship of important documents like the Note.
- C. The statement explicitly asserts that "the records of the Company do not show that the Note was ever released, paid off, satisfied, assigned, (P.36)

transferred, pledged, hypothecated or otherwise disposed of by the Company."

This reinforces the notion that Select Portfolios maintained control over the Note and did not engage in any actions that would relinquish their possession or control over it.

Considering these factors, it would indeed be wrong to interpret Mr. Kevin's statement as anything other than an indication that Select Portfolios had possession of the Note at some point. Therefore, we can assume that both Lost Note Affidavits do attest to having lost the Note at different places, years and by different people, canceling each other out, without trial authentication of both.

Error Number 8: The Nevada Court of Appeals' comparison of a case with one Lost Note Affidavit (the Nevada Jones case) to another with two Lost Note Affidavits is akin to comparing oranges and apples—they are simply not in the same category. Not only are both the Bank of America Lost Note Affidavit and Select Portfolios Affidavit vague, but they are also contradictory and effectively nullify each other. The Bank of America Lost Note Affidavit does not assert that Deutsche Bank National Trust had possession of the Note, as they themselves did not possess it and traced the issue back to 2006 when the Note's whereabouts were unknown. At that time, Deutsche Bank National Trust and Bank of America were not in possession of the Note; instead, the first servicer was IMPAC followed by Countrywide. Therefore, the confusion brought about by two conflicting Lost Note Affidavits, neither of which establishes possession and both vague on how the Note (P.37)

disappeared in the first place, cannot be equated to the circumstances in the Jones case. Instances of cases with two Lost Note affidavits are rare, occurring only once before in New Jersey and now in Las Vegas, as seen in Lissette Napoleoni's case. What exacerbates the situation is the presence of multiple defective Assignments and a highly redacted, unendorsed Note, none of which underwent trial authentication. These factors make Lissette Napoleoni's case even more prime for dismissal with prejudice.

The Nevada Cour of Appeals asserts:

To the extent that Napoleoni cites caselaw from New York for the proposition that a lost note affidavit must provide specific details as to where, when, and how a note was lost as well as the type of search that was conducted to locate the note, we are unpersuaded, as the Nevada Supreme Court has relied, at least in part, on a similarly vague lost note affidavit to conclude that a bank established its entitlement to enforce a lost note

pursuant to NRS 104.3309. See Jones, 136 Nev. at 130, 132-33, 460 P.3d at 960, 961-62 (considering a lost note affidavit wherein the affiant represented that a bank's loan servicer had conducted a diligent search to locate a note, which could not reasonably be obtained because it had been lost or destroyed); see also, e.g., Sabido v. Bank of N.Y. Mellon, 241 So. 3d 865, 867 (Fla. Dist. Ct. App. 2017) (stating that a bank seeking to reestablish a lost note need not prove "when, how, and by whom the note was lost," but instead, need only show that it or its predecessor in interest were entitled to enforce the note when loss of possession occurred (internal quotation marks omitted)).

However, the New Jersey case is a much more appropriate case from which to decide this case, as it deals with two affidavits: Deutsche Bank Nat. Trust Co. v. Anderson, 161 A.D.3d 1043 (N.Y.App. Div. 2018)

"Here, the Supreme Court properly concluded that, although the plaintiff was unable to produce the note, a copy of the note submitted by the plaintiff provided sufficient evidence of its terms (*see N.Y. Community Bank v. Jennings*, 2015 N.Y. Slip Op. 31591(U), *4, 2015 WL 5062168 [Sup. Ct., N.Y. County]). However, the lost note affidavit of Michael Matz and the affidavit of Debra Lee Wojciechowski, both officers of Bank of America, N.A., the purported servicer of the subject loan, are inconsistent with each other and contain vague and conclusory statements. Matz's affidavit states that the loan servicer "or its predecessor (as servicer or by merger) or the custodian" acquired possession of the note on or before August 4, 2006, and the loss of the note

was not due to transfer or seizure. Wojciechowski's affidavit claimed that the loan servicer acquired possession of the lost note affidavit on or before December 28, 2012, and maintained continuous physical possession of the note until the loss occurred. It was not clear when the loan servicer or its agent acquired possession of the note, or whether the loan servicer or an agent of the loan servicer acquired the note. Moreover, Matz's affidavit fails to provide sufficient facts as to when the search for the note occurred, who conducted the search, the steps taken in the search for the note, or when or how the note was lost (see *US Bank N.A. v. Richards*, 155 A.D.3d 522, 65 N.Y.S.3d 178 ; *Ventricelli v. DeGennaro*, 221 A.D.2d 231, 232, 633 N.Y.S.2d 315 ; *Marrazzo v. Piccolo*, 163 A.D.2d 369, 558 N.Y.S.2d 103 ; cf. *Citibank, N.A. v. Benedict*, 2000 WL 322785, 2000 U.S. Dist. LEXIS 3815 [S.D. N.Y., Mar. 28, 2000, No. 95-CIV-9541(AGS)]). Thus, the affidavits failed to sufficiently establish the plaintiff's ownership of the note.

Accordingly, the Supreme Court properly denied those branches of the plaintiff's motion which were for summary judgment on the complaint insofar as asserted against Anderson and for leave to appoint a referee to compute the sums due the plaintiff.

Here is another case that goes against vague Lost Note Affidavits:

U.S. Bank N.A. v. Cope,
2018 WL 6626497 (N.Y. App. Div. (Dec. 19, 2018)

And here find two cases that do not condone Estoppels:

NOLM, LLC V. Cty. of Clark, 120 Nev. 736 (2004)

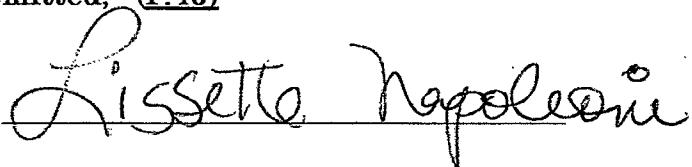
Marcuse v. Del Webb Communities, 123 Nev. 278 (2007)

Conclusion Lissette Napoleoni was compelled to file for bankruptcy unnecessarily in 2010 to address predatory lending practices and the 2008 banking crisis. She saw no other solution but to relinquish her home in bankruptcy proceedings after not receiving the promised 30-year fixed modification and her house being underwater. Due to banks withholding information that her Note had been lost prior to bankruptcy, around 2006, she was unable to resolve the lost Note

issue before filing for bankruptcy in 2010 or at the outset of bankruptcy proceedings. Instead, at the conclusion of her bankruptcy and despite having already relinquished the house, Lissette Napoleoni was forced to remain entangled in her now 'zombie home' the moment that the banks filed "Loss Note Affidavits" in 2014. The Lost Note Affidavits prevented her house from being foreclosed by any bank converting it into a zombie home all while damaging her real estate buying record. As a consequence, Lissette Napoleoni was not able to buy another house for years, she was not able to take advantage of post 2008 home prices or low interest. Instead she was forced to endure a prolonged legal ordeal, to live in a 'zombie home' for nearly a decade, and, overall, she spent about two decades in court trying to sort out the bank's paperwork mess. During all these years, intense lobbying efforts by financial institutions have tarnished the reputations of homeowners seeking relief in court in these types of situations, portraying them as opportunists. This portrayal perpetuates the unequal playing field where banks and investors hold all the power. By recognizing the errors in the Nevada Court of Appeals decision, the US Supreme Court can tip the scales in favor of homeowners. By selecting between contrasting state decisions regarding the appropriate standard of mortgage documentation, the US Supreme Court can help homeowners stay in their homes. Lissette's struggle is the struggle of homeowners across the nation who have been stuck in zombie homes and who have tried everything to keep them. The petition for a writ of certiorari should be granted. Respectfully submitted, (P.40)

Date: July 24th, 2024

Signed:

A handwritten signature in black ink, appearing to read "Lissette Napoleoni". The signature is fluid and cursive, with "Lissette" and "Napoleoni" being the most distinct parts.

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Lissette Napoleoni — PETITIONER

vs. —

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE, ON BEHALF OF
THE HOLDERS OF THE IMPAC SECURED
ASSETS CORP. MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-1

CASE NUMBER: A-19-803643-C District Court Clark County

CASE NUMBER: 84696 Nevada Court of Appeals

RESPONDENT(S)

PROOF OF SERVICE

I, Lissette Napoleoni, do swear or declare that on this date of July 24th, 2024 , as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the

above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. The names and addresses of those served are as follows: I declare under penalty of perjury that the foregoing is true and correct.

Malcolm Cisneros - Yenifer Yoon - Greg Wilde - Nathan Smith

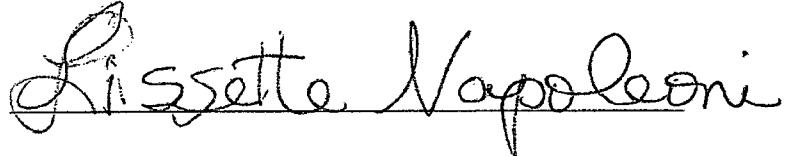
2112 Business Center Dr Ste 200, Irvine, CA 92612

Kent F. Larsen, Karl L. Nielsen at Smith, Larsen and Wixom

Hills Center Business Park, 1935 Village Center Circle, Las Vegas, NV 89134

Executed on July 24th, 2024

Signature,

A handwritten signature in black ink, appearing to read "Lissette Napoleni", is written over a horizontal line.

Lissette Napoleni