RESPONDENT APPENDIX
TABLE OF CONTENTS

Complaint, Filed in the U.S. District Court
for the Eastern District of Kentucky
(October 28, 2024) 1a

COMPLAINT, FILED IN THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY (OCTOBER 28, 2024)

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY

FILED OCT 28 2024
AT LEXINGTON
ROBERT R. CARR
CLERK U.S. DISTRICT COURT

DOUGLAS A. WAIN AND ELISA WAIN,	)
	)
Plaintiff(s),	)
	)
v.	)
	)
KIMBERLY NELL BUNNELL, Judge	)
JACQUELINE M. CALDWELL, Judge,	)
	)
Defendant(s).	)

Case No. 5:24-CV-305-GFVT

Jury Trial Yes

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Non-Prisoner Complaint)

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Douglas A. Wain and Elisa Wain

Address

P.O. Box 7473
Westlake Village CA 91359
Ventura County
859 494 3677
douglaswaln@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Kimberly Nell Bunnell
Judge Fayette County Circuit Court
120 North Limestone Lexington KY
Fayette County
859-246-2210
Official capacity

Defendant No. 2

Jacqueline M. Caldwell
Judge Kentucky Court of Appeals
100 E. Main St, Suite 200
Springfield KY 40069
Washington County
859-336-1076
Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against

☐ Federal officials

☑ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The Fifth and Fourteenth Amendment to the U.S. Constitution. We claim a "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983.

C. Plaintiffs suing under Bivens may only recover for the violation of certain constitutional rights. If you are suing under Bivens, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Kimberly Nell Bunnell, Judge, Fayette County Circuit Court, for the Commonwealth of Kentucky and Jacqueline M. Caldwell Judge, Kentucky Court of Appeals, for the Commonwealth of Kentucky.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

Foreclosure legal action against us by Central Bank & Trust Co. (CBT) Lexington, Kentucky, Fayette County Circuit Court, Lexington, Kentucky. Case No. 19-CI-00812. Filed March 6, 2019, and is ongoing.

B. What date and approximate time did the events giving rise to your claim(s) occur?

Between March 6, 2019, to today, the date of this filing to the U.S. District Court.

C. What are the facts underlying your claim(s)? (For example; What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

In Court filings we have documented due process violations by Judge Bunnell against us such as no notice or representation at hearings, not receiving motions or orders, being shut out of conversations during hearings, denying us critical information, and orders or rulings being changed without our knowledge. Many of these are listed in our Exhibit A to this filing which is our "Motion for Emergency Relief" to the Supreme Court of Kentucky which we have just filed. We have also claimed conflict of interest, bias and prejudice as possible factors in Judge Bunnell's denial of due process.

However, the most egregious due process violation and procedure is Judge Bunnell's incorrect claim that she "entered" a "Deficiency Judgment" in this case. There has never been a "deficiency"' hearing, motion, conversation, order, ruling, process, or

procedure, etc, in this case. Exhibit B in this filing is a case history of the case for proof. The subject of "deficiency" was not once mentioned up in this case until we brought it up at the August 9, 2024 hearing as part of our defense. We have been denied due process and due process procedure by Judge and Bunnell and why we would be responsible to CBT

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

We have been deprived the basic rights afforded to us by the Commonwealth of Kentucky and the United States of America. One example is that Judge Bunnell is trying to enforce an "involuntary servitude" arrangement by us to CBT.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

We request from this Honorable Court an immediate injunction to stop the Debtors Examination of us by Central Bank & Trust Co. (CBT) on October 31, 2024, which Judge Kimberly Bunnell compelled us to do in her August 19,

2024, Order. The result of this exam which would be irreparable damage to us, two senior citizens, bankrupting us and ruining us financially for the rest our lives given the nature of CBT unscrupulous activities against and in the past and which is continuing today. We hope this Honorable Court could enter such an Order by the end of day Wednesday, October 30, 2024. CBT's continued claims against us since the foreclosure and sale/auction of our property on February 8, 2021, Is fraudulent. However, Judge Bunnell has allowed CST to make claims and actions against us go forward based on a nonexistent "Deficiency Judgement" which Judge Bunnell erroneously claims was "entered" in this case. We may also seek punitive and compensatory damages which is ongoing. We also request to be allowed electronic communications with this Court and this Court's clerk.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

/s/ Douglas A. Wain

/s/ Elisa Wain

Signature of Plaintiffs

Douglas A. Wain and Elisa Wain
Printed Name of Plaintiffs

10/26/2024
Date of Signing