

## **APPENDIX**

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

**FILED**

SEP 24 2024

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

In re: MARY MARTHA MCCOMAS.

No. 24-4900

MARY MARTHA MCCOMAS,

D.C. No.  
1:22-cv-00435-CL  
District of Oregon,  
Medford

Petitioner,

**ORDER**

v.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON,  
MEDFORD.

Respondent,

PHH MORTGAGE CORPORATION, a  
New Jersey Corporation, and HSBC BANK  
USA, N.A., as Trustee for Merrill Lynch  
Mortgage Investors Trust Series MLOC  
2006-2 Mortgage Pass-Through Certificates,

Real Parties in Interest.

Before: CHRISTEN, OWENS, and BRESS, Circuit Judge.

Petitioner has not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus. See *In re Marsho*, 6 F.4th 891, 897 (9th Cir. 2021) ("To determine whether a writ of mandamus should be granted, we weigh the five factors outlined in *Bauman v. United States District Court*," *Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977)).

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Accordingly, the petition is denied.

No further filings will be entertained in this closed case.

**DENIED.**

**U.S. District Court  
District of Oregon (Medford (1))  
CIVIL DOCKET FOR CASE #: 1:22-cv-00435-CL**

Mary Martha McComas v. PHH Mortgage  
Assigned to: Magistrate Judge Mark D. Clarke  
Demand: \$478,000  
Case in other court: Circuit Court for the County of Jackson,  
22CV08669  
9th Circuit Court of Appeals, 23-35415  
9th Circuit Court of Appeals, 24-04900  
Cause: 28:1441 Petition for Removal

Date Filed: 03/18/2022  
Date Terminated: 05/15/2023  
Jury Demand: None  
Nature of Suit: 290 Real Property: Other  
Jurisdiction: Diversity

**Plaintiff**

**Mary Martha McComas**

represented by **Mary Martha McComas**  
480 Scottsdale Circle  
Medford, OR 97504  
541-292-3914  
PRO SE

V.

**Defendant**

**PHH Mortgage Corporation**  
*a New Jersey Corporation*

represented by **Lukasz I. Wozniak**  
Wright Finlay & Zak  
4665 MacArthur Court  
Ste 200  
Newport Beach, CA 92660  
949-477-5050  
Fax: 949-608-9142  
Email: lwozniak@wrightlegal.net  
**ATTORNEY TO BE NOTICED**

**Defendant**

**HSBC Bank USA, N.A.**  
*as Trustee for Merrill Lynch Mortgage  
Investors Trust Series MLCC 2006-2  
Mortgage Pass-Through Certificates*

represented by **Lukasz I. Wozniak**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Bank of America, NA**  
**TERMINATED: 08/29/2022**

represented by **James P. Laurick**  
Kilmer Voorhees & Laurick, PC  
2701 NW Vaughn St.  
Suite 780  
Portland, OR 97210  
503-224-0055

Fax: 503-222-5290  
Email: jlaurick@kilmerlaw.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Merrill Lynch Credit Corporation**  
**TERMINATED: 08/29/2022**

represented by **James P. Laurick**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
03/18/2022	<u>1</u>	Notice of Removal of Case Number 22CV08669 from Circuit Court County of Jackson. <i>Filing Fee Paid \$402.00, AORDC-8448983</i> . Filed by PHH Mortgage Corporation (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Certificate of Interested Parties, # <u>5</u> Proof of Service). (Wozniak, Lukasz) Modified on 3/18/2022 (jkm). To reflect filing fee paid. NEF regenerated. (Entered: 03/18/2022)
03/18/2022	<u>2</u>	Civil Cover Sheet regarding Notice of Removal, <u>1</u> . Filed by PHH Mortgage Corporation. (Wozniak, Lukasz) (Entered: 03/18/2022)
03/18/2022	<u>3</u>	Notice of Case Assignment to Magistrate Judge Mark D. Clarke and Discovery and Pretrial Scheduling Order. Discovery is to be completed by 7/18/2022. Joint Alternate Dispute Resolution Report is due by 8/15/2022. Pretrial Order is due by 8/15/2022. Ordered by Magistrate Judge Mark D. Clarke. (jkm) (Entered: 03/18/2022)
03/18/2022	<u>4</u>	Scheduling Order by Magistrate Judge Mark D. Clarke regarding Discovery and Pretrial Scheduling Order, <u>3</u> . Consent to Jurisdiction by a Magistrate Judge, if any, is to be filed by 7/18/2022. Dispositive Motions are due by 8/15/2022. Ordered by Magistrate Judge Mark D. Clarke. <i>(Deposited in outgoing mail Document #3 &amp; #4 to pro se party on 3/18/2022.)</i> (jkm) (Entered: 03/18/2022)
03/24/2022	<u>5</u>	Motion to Dismiss . Filed by PHH Mortgage. (Wozniak, Lukasz) (Entered: 03/24/2022)
04/19/2022	<u>6</u>	Motion for Extension of Time to File a Response/Reply to Motion to Dismiss <u>5</u> . Filed by Mary Martha McComas. (rsm) (Entered: 04/19/2022)
04/19/2022	<u>7</u>	Declaration of <i>Lukasz I. Wozniak in Response to Plaintiff's Motion for Continuance</i> . Filed by PHH Mortgage. (Related document(s): Motion for Extension of Time to File Response/Reply to a Motion <u>6</u> .) (Wozniak, Lukasz) (Entered: 04/19/2022)
04/20/2022	<u>8</u>	<b>ORDER:</b> Granting Motion for Extension of Time to File Response <u>6</u> to Motion to Dismiss <u>5</u> . Response is due by 6/21/2022. Motion is taken under advisement as of 6/27/2022. Ordered by Magistrate Judge Mark D. Clarke. <i>(Deposited in outgoing mail to pro se party on 04/20/2022.)</i> (rsm) (Entered: 04/20/2022)
06/09/2022	<u>9</u>	Response in Opposition to Motion to Dismiss <u>5</u> . Filed by Mary Martha McComas. (Attachments: # <u>1</u> Exhibit A) (jkm) (Entered: 06/09/2022)
06/09/2022	<u>10</u>	Individual Party Consent to Jurisdiction by U.S. Magistrate Judge. (jkm) (Entered: 06/09/2022)
06/13/2022	<u>11</u>	Reply to Motion to Dismiss <u>5</u> . Filed by PHH Mortgage. (Wozniak, Lukasz) (Entered: 06/13/2022)

06/22/2022	<u>12</u>	Reply In Opposition to Motion to Dismiss. Filed by Mary Martha McComas. (Related document(s): Motion to Dismiss <u>5</u> .) (jkm) (Entered: 06/22/2022)
07/15/2022	<u>13</u>	Opinion and Order regarding Motion to Dismiss <u>5</u> . Defendant's Motion to Dismiss <u>5</u> should be GRANTED, and the Complaint should be dismissed without prejudice, and with leave to file an amended complaint within thirty (30) days. Signed on 07/15/2022 by Magistrate Judge Mark D. Clarke. <i>(Deposited in outgoing mail to pro se party on 07/15/2022.)</i> (rsm) (Entered: 07/15/2022)
07/15/2022	14	Scheduling Order. Amended Complaint is due 8/15/2022. Ordered by Magistrate Judge Mark D. Clarke. <i>(Deposited in outgoing mail to pro se party on 07/15/2022.)</i> (rsm) (Entered: 07/15/2022)
07/27/2022	<u>15</u>	Motion to Amend/Correct Scheduling Order, 4 . Filed by PHH Mortgage. (Wozniak, Lukasz) (Entered: 07/27/2022)
07/27/2022	<u>16</u>	Declaration of <i>Lukasz I. Wozniak in Support of Defendant's Motion Amend Court's Discovery and Pretrial Scheduling Order Dated March 18, 2022</i> . Filed by PHH Mortgage. (Related document(s): Motion to Amend/Correct <u>15</u> .) (Wozniak, Lukasz) (Entered: 07/27/2022)
07/28/2022	17	<b>ORDER:</b> Granting Motion to Amend/Correct <u>15</u> . Ordered by Magistrate Judge Mark D. Clarke. <i>(Deposited in outgoing mail to pro se party on 07/28/2022.)</i> (rsm) (Entered: 07/28/2022)
07/28/2022	18	Scheduling Order regarding Motion to Amend/Correct Scheduling Order, 4 <u>15</u> . Answer is due by 9/8/2022. Discovery is to be completed by 12/16/2022. A Rule 16 Conference will be set once an answer is filed at which time further dates will be set. Ordered by Magistrate Judge Mark D. Clarke. <i>(Deposited in outgoing mail to pro se party on 07/28/2022.)</i> (rsm) (Entered: 07/28/2022)
08/08/2022	<u>19</u>	First Amended Complaint Summons issued as to HSBC Bank USA, N.A., Bank of America, NA., Merrill Lynch Credit Corporation. Filed by Mary Martha McComas against PHH Mortgage, HSBC Bank USA, N.A., Bank of America, NA, Merrill Lynch Credit Corporation. (jkm) (Entered: 08/08/2022)
08/08/2022	<u>20</u>	Summons Issued as to Bank of America, NA, HSBC Bank USA, N.A., Merrill Lynch Credit Corporation. (jkm) (Entered: 08/08/2022)
08/10/2022	<u>21</u>	Motion to Dismiss <i>First Amended Complaint</i> . Filed by PHH Mortgage, HSBC Bank USA, N.A.. (Wozniak, Lukasz) (Entered: 08/10/2022)
08/10/2022	<u>22</u>	Request for Judicial Notice Motion to Dismiss <u>21</u> . Filed by HSBC Bank USA, N.A., PHH Mortgage. (Wozniak, Lukasz) (Entered: 08/10/2022)
08/17/2022	<u>23</u>	Notice of Appearance of James P. Laurick appearing on behalf of Bank of America, NA, Merrill Lynch Credit Corporation. Filed by on behalf of Bank of America, NA, Merrill Lynch Credit Corporation. (Laurick, James) (Entered: 08/17/2022)
08/23/2022	<u>24</u>	Motion for Order to correct Defendant's names in case. re: Amended Complaint, <u>19</u> . Filed by Mary Martha McComas. (jkm) (Entered: 08/23/2022)
08/23/2022	<u>25</u>	Response in Opposition to Request for Judicial Notice Motion to Dismiss <u>21</u> <u>22</u> . Filed by Mary Martha McComas. (jkm) (Entered: 08/23/2022)
08/23/2022	<u>26</u>	Response in Opposition to Motion to Dismiss <i>First Amended Complaint</i> <u>21</u> . Filed by Mary Martha McComas. (jkm) (Entered: 08/23/2022)

08/24/2022	<u>27</u>	Return of Service Executed as to HSBC Bank USA, N.A. served on 8/9/2022, answer due on 8/30/2022. (jkm) (Entered: 08/24/2022)
08/24/2022	<u>28</u>	Return of Service Executed as to Merrill Lynch Credit Corporation served on 8/9/2022, answer due on 8/30/2022. (jkm) (Entered: 08/24/2022)
08/24/2022	<u>29</u>	Return of Service Executed as to Bank of America, NA served on 8/9/2022, answer due on 8/30/2022. (jkm) (Entered: 08/24/2022)
08/29/2022	<u>30</u>	Notice of Voluntary Dismissal of Party Bank of America, NA and Merrill Lynch Credit Corporation. Filed by Mary Martha McComas. (jkm) (Entered: 08/29/2022)
08/29/2022	<u>31</u>	Motion for Leave to File Second Amended Complaint. Filed by Mary Martha McComas. (Attachments: # <u>1</u> Proposed Document 2ND Amended Complaint, # <u>2</u> Proposed Document Exhibits) (jkm) (Entered: 08/29/2022)
09/02/2022	<u>32</u>	Reply to Plaintiff's Opposition to Motion to Dismiss <i>First Amended Complaint</i> <u>21</u> . Filed by HSBC Bank USA, N.A., PHH Mortgage Corporation. (Wozniak, Lukasz) (Entered: 09/02/2022)
09/02/2022	<u>33</u>	Reply to Plaintiff's Opposition to Request for Judicial Notice Motion to Dismiss <u>21</u> <u>22</u> . Filed by HSBC Bank USA, N.A., PHH Mortgage Corporation. (Wozniak, Lukasz) (Entered: 09/02/2022)
09/09/2022	<u>34</u>	Response to Motion for Leave to File Amended Complaint/Petition <u>31</u> . Filed by HSBC Bank USA, N.A., PHH Mortgage Corporation. (Wozniak, Lukasz) (Entered: 09/09/2022)
09/15/2022	<u>35</u>	Reply to Motion for Leave to File Amended Complaint/Petition <u>31</u> . Filed by Mary Martha McComas. (jkm) (Entered: 09/15/2022)
10/25/2022	<u>36</u>	Findings & Recommendation: Plaintiff fails to state a claim for relief against the Defendants. The deficiencies of the Amended Complaint and Proposed Second Amended Complaint cannot be cured by amendment. Defendants' motion to dismiss and request for judicial notice <u>21</u> and <u>22</u> should be granted. Plaintiff's motion for leave to file an amended complaint <u>31</u> should be denied. This case should be dismissed with prejudice. Objections to the Findings and Recommendation are due by 11/8/2022. Please access entire text by document number hyperlink. Signed on 10/25/2022 by Magistrate Judge Mark D. Clarke. ( <i>Deposited in outgoing mail to pro se party on 10/25/2022.</i> ) (rsm) (Entered: 10/25/2022)
10/25/2022	<u>37</u>	<b>ORDER</b> referring Findings and Recommendation <u>36</u> to Judge Ann Aiken. Signed on 10/25/2022 by Magistrate Judge Mark D. Clarke. ( <i>Deposited in outgoing mail to pro se party on 10/25/2022.</i> ) (rsm) (Entered: 10/25/2022)
11/03/2022	<u>38</u>	Objections to Findings & Recommendation: Motion to Dismiss <i>First Amended Complaint</i> <u>21</u> , Motion for Leave to File Amended Complaint/Petition <u>31</u> , Request for Judicial Notice Motion to Dismiss <u>21</u> <u>22</u> should be Granted and Denied <u>36</u> . Filed by Mary Martha McComas. (jkm) (Entered: 11/03/2022)
11/08/2022	<u>39</u>	Response to Objections to Findings & Recommendation. Related document(s): <u>36</u> Findings & Recommendation,,. Filed by HSBC Bank USA, N.A., PHH Mortgage Corporation. (Wozniak, Lukasz) (Entered: 11/08/2022)
12/14/2022	<u>40</u>	Motion to Amend/Correct Scheduling Order, 18 . Filed by HSBC Bank USA, N.A., PHH Mortgage Corporation. (Wozniak, Lukasz) (Entered: 12/14/2022)
12/19/2022	<u>41</u>	Response in Opposition to Motion to Amend/Correct Scheduling Order, 18 <u>40</u> . Filed by Mary Martha McComas. (jkm) (Entered: 12/19/2022)
12/22/2022	<u>42</u>	Reply to Plaintiff's Response in Opposition to Motion to Amend/Correct Scheduling Order, 18 <u>40</u> . Filed by HSBC Bank USA, N.A., PHH Mortgage Corporation. (Wozniak, Lukasz)

		(Entered: 12/22/2022)
12/22/2022	<u>43</u>	Declaration of Lukasz I. Wozniak <i>in Support of Defendants' Reply to Plaintiff's Response in Opposition to Motion to Amend Court's Scheduling Order Dated July 28 2022</i> . Filed by HSBC Bank USA, N.A., PHH Mortgage Corporation. (Related document(s): Motion to Amend/Correct <u>40</u> .) (Wozniak, Lukasz) (Entered: 12/22/2022)
01/09/2023	<u>44</u>	Motion for Leave to File a Supplemental Memorandum in Support of Plaintiff's Opposition to Defendant's Motion to Amend Scheduling Order. Filed by Mary Martha McComas. (jkm) (Entered: 01/09/2023)
01/12/2023	<u>45</u>	<b>ORDER:</b> Granting in Part Denying in Part Motion to Amend/Correct <u>40</u> . the case deadlines are abated, and a new case schedule will be set, if necessary, after the Court rules on the pending Findings and Recommendation <u>36</u> . Ordered by Magistrate Judge Mark D. Clarke. ( <i>Deposited in outgoing mail to pro se party on 01/12/2023.</i> ) (rsm) (Entered: 01/12/2023)
01/12/2023	<u>46</u>	<b>ORDER:</b> Granting Motion for Leave <u>44</u> . The Supplemental Memdorandum is accepted as filed. Ordered by Magistrate Judge Mark D. Clarke. ( <i>Deposited in outgoing mail to pro se party on 01/12/2023.</i> ) (rsm) (Entered: 01/12/2023)
01/27/2023	<u>47</u>	Plaintiff's Request for Judicial Notice on the Discovery Documents and Papers Filed by Mary Martha McComas. (Attachments: # <u>1</u> Exhibit) (jkm) (Entered: 01/27/2023)
01/27/2023	<u>48</u>	Supplement. Filed by Mary Martha McComas. (Related document(s): Response in Opposition to Motion <u>41</u> .) (jkm) (Entered: 01/27/2023)
05/15/2023	<u>51</u>	<b>ORDER:</b> Adopting Findings and Recommendation <u>36</u> ; Granting Motion to Dismiss <u>21</u> ; Granting Request for Judicial Notice <u>22</u> ; Denying Motion for Leave to File Amended Complaint/Petition <u>31</u> ; Denying Motion for Leave to file Second Amended Complaint <u>49</u> . Signed on 5/15/2023 by Judge Ann L. Aiken. ( <i>Deposited in outgoing mail to pro se party on 5/15/2023.</i> ) (ck) (Entered: 05/15/2023)
05/15/2023	<u>52</u>	<b>JUDGMENT:</b> For the reasons set forth in the accompanying Order, this case is <b>DISMISSED</b> without further leave to amend. Signed on 5/15/2023 by Judge Ann L. Aiken. ( <i>Deposited in outgoing mail to pro se party on 5/15/2023.</i> ) (ck) (Entered: 05/15/2023)
06/14/2023	<u>53</u>	Notice of Appeal to the 9th Circuit. Filing fee in amount of \$505 collected; Receipt No. 4730 issued. Filed by Mary Martha McComas. (rsm) (Entered: 06/14/2023)
06/20/2023		USCA Case Number and Notice confirming Docketing Record on Appeal re Notice of Appeal <u>53</u> . <b>Case Appealed to 9th Circuit Court of Appeals Case Number 23-35415</b> assigned. (jkm) (Entered: 06/20/2023)
06/20/2023	<u>54</u>	Time Schedule Order from USCA for the 9th Circuit, USCA # 23-35415 re Notice of Appeal <u>53</u> . (jkm) (Entered: 06/20/2023)
06/04/2024	<u>55</u>	USCA Memorandum for the 9th Circuit, USCA #23-35415, re Notice of Appeal <u>53</u> The Appeal is: <b>AFFIRMED</b> . (jkm) (Entered: 06/04/2024)
06/26/2024	<u>56</u>	MANDATE Issued regarding ( <u>55</u> <i>USCA Memorandum for the 9th Circuit, USCA #23-35415, re Notice of Appeal <u>53</u> The Appeal is: AFFIRMED.</i> (jkm) ). (hm) (Entered: 06/26/2024)
08/09/2024	<u>57</u>	Writ of Mandamus Filed in the 9th Circuit. Case number <b>24-4900</b> assigned. (hm) (Entered: 08/13/2024)
09/24/2024	<u>58</u>	Order (Order: Writ of Mandamus is <b>DENIED</b> ) filed in 9th Circuit case number 24-4900. Related document: Writ of Mandamus Filed 9th Circuit <u>57</u> . (jkm) (Entered: 09/24/2024)



<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
09/10/2025 09:37:26			
<b>PACER Login:</b>	Scotus2023	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:22-cv-00435-CL Start date: 1/1/1980 End date: 9/10/2025
<b>Billable Pages:</b>	5	<b>Cost:</b>	0.50
<b>Exempt flag:</b>	Exempt	<b>Exempt reason:</b>	Always