No. _____

In The

Supreme Court of the United States

JEAN MARIE BARTON, BYRON LEE BARTON
INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED,

Petitioners,

vs.

JP MORGAN CHASE BANK NA,
QUALITY LOAN SERVICE CORP OF WASHINGTON
AND TRIANGLE OF WASHINGTON,

Respondents.

On Petition For A 1983 Writ Under Color Of Law United States Supreme Court Of Appeals For The Ninth Circuit

BRIEF IN SUPPORT OF 1983 UNDER COLOR OF LAW

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QUESTIONS PRESENTED

When the lower federal courts abandon 28 U.S.C. Section 1738 – State and Territorial statutes and judicial proceedings; full faith and credit and imperatives of the fifth amendment to provide equal protection for a seventy-year-old senior by denying that it is a manifest injustice and expressing disbelief of fraud upon the court, does it set a dangerous precedent for all landowners whose land has been taken unconstitutionally?

Should the Court grant a 1983 under color of law to resolve the significant division among the circuits concerning the jurisdictional prerequisites for appealing a 28 U.S.C. § 1738 and No. 14-17498 Claim Splitting while an Objection was filed with the Ninth Circuit a timely appeal was submitted to the U.S. Supreme Court and did the Ninth Circuit improperly apply a defective Res Judicata under the color of law that voided a 28 U.S.C. § 1738 and No. 14-17498 by law that protected against the 9th Claim Splitting which aloud Chase Bank, ownership of a Bifurcated Mortgage that lack Due Process when taking property?

Should this be a Direct Appeal to the Supreme Court for a violation of Constitutional law "Due Process", 28 U.S.C. § 1738 and should the court grant a 1983 under the color of law to resolve the significant division among the circuits concerning the jurisdictional prerequisites?

INTERESTED PARTIES

There are no parties to the proceeding other than those named in the caption of the case.

RELATED CASES

BYRON BARTON, et ano. v. JP MORGAN CHASE BANK, et al. THE SUPREME COURT OF WASHINGTON ORDER Court of Appeals No. 73336-2-I

JEAN MARIE BARTON, BYRON LEE BARTON, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED v. JP MORGAN CHASE BANK, N.A., QUALITY LOAN SERVICE CORP. OF WASHINGTON AND TRIANGLE PROPERTY OF WASHINGTON UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON No. 2:17-cv-01100 RAJ ORDER May 11, 2018

JEAN MARIE BARTON; BYRON LEE BARTON, individually and on behalf of all others similarly situated v. QUALITY LOAN SERVICE CORP OF WASHINGTON; TRIANGLE PROPERTY OF WASHINGTON, UNITED STATES COURT OF APPEALS No. 18-35798 D.C. No. 2:17-cv-01100-RAJ MEMORANDUM **AFFIRMED** SEPTEMBER 17, 2020. FOR PUBLICATION UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT No. 14-17498 D.C. No 3:13-cv-01247-VC OPINION Filed November 27, 2017 Claim Preclusion dismissal. See, Appendix 5a.

WAIVER OF ORAL ARGUMENT/ THERE ARE NO TRANSCRIPTS

THE FACTS AND LEGAL ARGUMENTS ARE ADEQUATELY PRESENTED IN THE BRIEFS AND RECORD, AND THE DECISIONAL PROCESS WOULD NOT BE SIGNIFICANTLY AIDED BY ORAL ARGUMENT. THE PLAINTIFF, BYRON BARTON, SUFFERED A HEART ATTACK AND STROKE THAT LEFT HIM UNABLE TO SPEAK WHICH WOULD PREJUDICE THE PLAINTIFF.

THERE ARE NO TRANSCRIPTS.

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

INTERESTED PARTIES..... ii

RELATED CASES..... ii

WAIVER OF ORAL ARGUMENT/THERE ARE NO TRANSCRIPTS..... iii

TABLE OF CONTENTS..... iv

TABLE OF AUTHORITIES..... ix

OPINIONS BELOW 1

STATEMENT OF THE CASE 2

STATEMENT OF JURISDICTION..... 5

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED 6

Supremacy Clause and Fifth and Fourteenth Amendments to U.S. Constitution.....*passim*

28 U.S.C. Section 1738 that Supreme Court has rule upon in the past.....*passim*

Barton's hold there is a significant circuit split of the 9th Claim Splitting No. 14-17498 by the 9th Circuit.....*passim*

STATUTORY PROVISIONS 28 U.S.C. SECTION 1738 FULL FAITH AND CREDIT ....*passim*

ARGUMENT 7

WASHINGTON STATE SUPREME COURT OFFICIAL ACT..... 7

TABLE OF CONTENTS – Continued

Page

4.14 SECTION 1983 – STATE-CREATED DANGER..... 7

4.3 SECTION 1983 – ELEMENTS OF CLAIM.... 10

4.4.1 SECTION 1983 – ACTION UNDER THE COLOR OF STATE LAW IS NOT IN DISPUTE 11

4.4 SECTION 1983-ACTON UNDER COLOR OF STATE LAW..... 11

4.6 LIABILITY IN CONNECTION WITH THE ACTIONS OF ANOTHER 12

4.6.1 SECTION 1983 – SUPERVISORY OFFICIAL SUPERVISORY LIABILITY UNDER 42 U.S.C. SECTION 1983..... 13

4.6.2 FAILURE TO INTERVENE 14

CLAIM PRECLUSION RES JUDICATA 15

THE STANDARD..... 16

4.4.8.1 COMPENSATORY DAMAGES 19

4.8 SECTION 1983 – DAMAGES..... 19

QUALITY LOAN SERVICE QUESTIONED CHASE FORECLOSURES..... 19

TRIANGLE OF WASHINGTON IS OPERATING WITH DIRTY HANDS..... 22

FEDERAL CIVIL RULES PROCEDURE, RULE 54 LEGAL FEES FOR VIOLATION OF 28 U.S.C. SECTION 1738 AND FRAUD..... 24

FRAUD UPON THE COURT 24

TABLE OF CONTENTS – Continued

Page

COMPENSATE BORROWERS WHO HAVE BEEN HARMED 24

SUMMARY OF WILLIAM HUBBARD 24

4.8.3 SECTION 1983 – PUNITIVE DAMAGES ... 27

TRIANGLE DAMAGES 27

QUALITY LOANS SERVICE DAMAGES 30

4.12.4 SECTION 1983 UNLAWFUL 31

4.12.2 SECTION 1983 – UNLAWFUL SEIZURE – PROBABLE CAUSE 33

MALICIOUS-INJURY 35

The Ninth Circuit knew they must follow 28 U.S.C. Section 1738 35

CONCLUSION 36

PUBLIC FAITH IN DUE PROCESS WILL SUFFER 37

APPENDIX

Decision of the 9th Circuit Decision was late for reconsideration when a 60(b) motion is good for one year and 28 U.S.C. Section 1738 federal judge must follow. This disable person was unable to meet the twenty-day dead line. The Ninth Appeals court ruled against a Constitutional law that was pass by Congress. See. 28 U.S.C. Section 1738 and Ninth Appeals Court opinion AGAINST Claim Splitting No. 14-17498 ..... 1a

TABLE OF CONTENTS – Continued

Page

Federal District Court ORDER September 3a

Washington State Supreme Court; ORDER.....7a

Report of Chase attorney that claims WAMU Bank sold all their mortgages before Chase bought WAMU Bank.....8a

SWORN OATH VERIFICATION OF BARTONS' AUDIT 12a

Paladin Associates Summary and Conclusion "if the Note a Deed of Trust are held by different entities; the loan would be considered bifurcated.....14a

Paladin Associates Summary and Conclusion that Chase Bank does not own WAMU Banks Mortgages or loans.....17a

September 29, 2010 dated QUIT CLAIM DEED, San Diego County Recorder's Office.....17a

Fraudulent Activity Related to this Property 19a

Deed of Trust recorded by WAMU FA in King County recorder's Office.....23a

WAMU CLOSING BOOK PAGE 102 where it shows CHASE FAILED TO FILE A CLAIM.....25a

Copy of the original note that shows WAMU sold their mortgage.....27a

CHASE POWER OF ATTORNEY REVOKED dated September 30, 2011 .....28a

TABLE OF CONTENTS – Continued

Page

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT PUBLISHED OPINION Rule against Claim Splitting No. 14-17498 .....29a

Property History for 6548 41st Avenue SW Seattle, WA.....32a

WAMU Closing book txt page 107 .....33a

Bankruptcy, Divorce and The Rooker-Feldman Doctrine (BAP) 35a

Supreme Court State of Washington Clerk's Office.....37a

The seller's Agent and the Prospective Buyer.....38a

David Horton expert of Contracts, Trust, Wills, Estates and Introduction to Law.....40a

Congressional Oversight Panel, November Oversight Report.....50a

TABLE OF AUTHORITIES

Page

CASES

Adickes v. S.H. Kress & Co., 398 U.S. 144, 90 S. Ct. 1598, 26 L. Ed. 2d 142 (1970) 10

Am. Mobile Homes of Wash, Inc. v. Seattle First Nat'l Bank, 115 Wn.2d 307, 796 P.2d 1276 (1990).....3

Brown v. Board of Education (17 May 1954)

Bunch v. Nationwide Mut. Ins. Co., 180 Wn. App. 37, 321 P.3d 266 (2014).....3, 11

Carey, v. Piphus, the U.S. Supreme Court on March 21, 1978

Doe, 536 U.S. 273 (2002).....33

Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280 (2005) 35

Gideon v. Wainwright (18 Mar 1963)

Gillespie v. Seattle-First National Bank, 855 P.2d 680 (Wash. Ct. App. 1993).....21, 31

Gitlow v. New York (08 June 1925)

Griswold v. Connecticut (07 Jun 1965)

Hafer v. Melo, 502 U.S. 21, 112 S. Ct. 358 (1991).....12

Hazel-Atlas, 322 U.S. at 244 (1944) 25

Home Telephone & Telegraph Co. v. Los Angeles, 227 U.S. 278 (1913) 7

Hynson By and Through Hynson v. City of Chester, 827 F.2d 932 (3d Cir. 1987) 9

TABLE OF AUTHORITIES – Continued

Page

Kenner v. Comm'r of Internal Revenue, 387 F.2d 689 (7th Cir. 1968).....25

Kocher v. New York (17 Apr 1905)

Lugar v. Edmondson Oil Company, 457 U.S. 922, 935, note 18, 102 S. Ct. 2744, note 18 (1982) 12

Mapp v. Ohio (19 Jun 1961)

Martinez v. California, 444 U.S. 277 (1980).....7

Monell v. Department of Social Services, the United States Supreme Court held that a city is a person for purposes of Section 1983.....12

Monroe v. Pape, 365 U.S. 167, 81 S. Ct. 473 (1961).....12

Plessy v. Ferguson (18 May 1896)

Roe v. Wade, 410 U.S. 130 (1973)

Sherwood v. Mulvihill, 113 F.3d 396 (3d Cir. 1997).....9

Sniadach v. Family Finance Corp., 395 U.S. 337, 89 S. Ct. 1820, 23 L. Ed. 2d 349 (1969) 11

State Farm Mutual Automobile Insurance Company v. Campbell, 538 U.S. 408 (2003) 30

Wood v. Strickland (1975)

Yang v. Hardin, 37 F.2d 84 (7th Cir. 1984)..... 15, 17, 18

TABLE OF AUTHORITIES – Continued

Page

STATUTES

28 U.S.C. § 1738 Full Faith and Credit Decision of the 9th Circuit (September 17, 2020).....*passim*

28 U.S.C. § 1742 removal of federal officers (1990)....7, 11

42 U.S.C. § 1983 .....*passim*

No. 14-17498 the opinion against claim splitting Constitution 5th and 14th 29a

The profit the trustee made by reason of the breach (Rev. Code Wash. § 11.98.085 (2015)) 21, 31

OTHER AUTHORITIES

Congressional Oversight Panel November Oversight Report, Examining the Consequences of Mortgage Irregularities for Financial Stability and Foreclosure Mitigation. See (November 16, 2010), David Horton. See, "The Shadow Terms: Contract Procedure and Unilateral Amendments," 57 UCLA Law Review 605 (February 2010).....25

The Ninth Circuit Bankruptcy Panel (BAP) (2014).....35

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at pages 12-13 of the brief, the opinion and is reported at: The Tenth Appeals Court No. 14-17498 D.C. 3:13-cv-01247-CV opinion against claim splitting. See, Appendix 30a Ninth Circuit Opinion.

The 10th Appeals Court would of reverse the district court's dismissal of almost all of Bartons' claims as barred by a prior judgment of the United States District Court for the District of Washington; and remanded for further proceeding per the 9th Ruling of Inter Jurisdiction No. 14-17498. Bartons' brought this action to recover debt from Chase entities affiliated with Quality Loan Service of purchase of Bartons' property. Bartons' previously filed suit in Washington King County District court seeking to enforce a void agreement, and the court ruled against the Bartons. The court held that the summary judgment ruling of the federal district court in Washington (Res Judicata) on Bartons' prior breach of contract claim (based on the Res Judicata) against the Bartons did not preclude Bartons from bringing the present Motion to Dismiss 60(b) for the 9th Appeals Ruling No. 14-17498.

The 10th would hold that because the claims in the present action and in the prior guaranty action did not arise from the same transaction or occurrence, Washington version of traditional res judicata did not apply. The 10th Appeals Court further held that although Washington entire controversy doctrine may have prevented Bartons from bringing the present

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claims in Washington, this procedural joinder rule did not bar the claims from being heard in the federal district court sitting in California. The 10th would conclude that the district court erred in ruling that the claims in the present action were precluded under Washington law. See, 9th Appeals Court Ruling No. 14-17498 and the 10th.

The opinion of the United States district court appears at Pages 12-13 of the brief is a published opinion.

The Tenth Circuit decision, See, Katz v. Gerardi, 655 F.3d 1212 (10th Cir. 2011). And Tenth Opinion is reproduced in the brief, pages 12-13.

STATEMENT OF THE CASE

The issue presented in this case involves a genuine and current conflict between the Courts of Appeals that is significant and substantially important because it will determine the standard of review courts use when reviewing the dismissal of an entire cause of action through 28 U.S.C. § 1738 of Claim Splitting. This case also raises issues of exceptional importance under The Ninth Circuit Opinion No. 14-17498 protection provisions of Claim Splitting as the Fifth and Fourteenth Amendments to the Constitution guarantee as in all litigation in which Due Processes is omitted by Washington Supreme Court is used as the legal equivalent of a summary judgment motion. Furthermore, the Ninth Circuit opinion affirming the district court's defective Res Judicata ruling created a circuit split

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regarding the proper standard of appellate review in such cases. See, Giles M. Lugar, Petitioner v. Edmondson Oil Company, Inc. and Ronald L. Barbour. No. 80-1730. Argued Dec. 8, 1981. Decided June 25, 1982. A Section 1983 under the color of law will expose the Ninth Circuit violation of 28 U.S.C. § 1738.

Supreme Court Rule No. 62 grants a stay of Judgment for unconstitutional acts

A requirement of 1983 under the color of law requires the judgment cannot be under the color of law. The Supreme Court has ruled it only applies to unconstitutional state laws 1. LILIAN the Supreme Court of. Washington State prohibits claim splitting as part of Washington Constitution as well not allowing Due Process. Marshall held that the governing statute concerning the District of Columbia the court ruled that the statute applied, held the bond void, and rendered . . . See, Davis, 100 U.S. 257, 261-62 (1880).

Washington prohibits this type of claim splitting, which promotes unseemly, expensive, and dangerous conflicts of jurisdiction and process. E.g., Am. Mobile Homes of Wash., Inc. v. Seattle First Nat'l Bank, 115 Wn.2d 307, 317, 796 P.2d 1276 (1990); Bunch v. Nationwide Mut. Ins. Co., 180 Wn. App. 37, 42, 50, 321 P.3d 266 (2014). But Washington policy is clear: Our courts do not tolerate litigants bringing concurrent or successive suits about the same subject matter against the same defendants. The court should reverse the trial court on this basis alone. The District Federal Court erred in applying a defective Res Judicata of claim

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splitting. See, the Ninth ruling No. 14-17498 Order against claim splitting and the Supreme Court Ruling. Id. Article III of the Constitution establishes the judicial branch of the federal government. Notably, it empowers federal courts to hear "cases" and "controversies."

The Constitution further creates a federal judiciary with significant independence, providing federal judges with life tenure and prohibiting diminutions of judges' salaries. But the Framers also granted Congress the power to regulate the federal courts in numerous ways. For instance, Article III authorizes Congress to determine what classes of "cases" and "controversies" inferior courts have jurisdiction to review. Additionally, Article III's Exceptions Clause grants Congress the power to make "exceptions" and "regulations" to the Supreme Court's appellate jurisdiction. Congress sometimes exercises this power by "stripping" federal courts of jurisdiction to hear a class of cases. Congress has gone so far as to eliminate a court's jurisdiction to review a particular case in the midst of litigation. More generally, Congress may influence judicial resolutions by amending the substantive law underlying particular litigation of interest to the legislature. Department of Social Serv., 436 U.S. 658 (1978), a municipal government can be held liable under Section 1983 if the Bartons can demonstrate that a "deprivation of a federal right occurred as a "policy" of local government can be held as a result of "policy of the local government's legislative body or of those local officials whose acts may fairly be said to be."

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JURISDICTION

Statute of limitations in RCW § 4.16.080(2) . . . 25.5. Plaintiffs filed their Section 1983 claims . . . violation of the Due Process Clause of the United States Constitution . . . the Washington State Land Use Petition Act (LUPA). The three (3) year limitation period of RCW § 4.16.080(2) applies to all actions seeking to redress injuries to the person or rights of another not enumerated in other limitation statutes, regardless of whether the tort-feasor's act was a direct or an indirect cause of the injury. Supreme Court has subject-matter jurisdiction over 1983 under 28 U.S.C. Section 1343(a)(3)1.

Jurisdiction is conferred pursuant to 42 U.S.C. § 1983. This court retains Jurisdiction under the Supremacy Clause as well Due Process, Fifth and Fourteenth Amendments to the U.S. Constitution. This case arises specifically pursuant to the guarantees of those Amendments to the U.S. Constitution.

A *Bivens* Action will not Correct State Constitutional Errors.

"The Supreme Court has recently refused to hear 1983 under the color of law actions against federal officials (judges) which as a *Bivens* action will only correct official judge action of 1983. Under the Color of Law, however, it will not correct the Constitutional errors of Washington Supreme Court Decision. The Supreme Court of Washington Ruled against 28 U.S.C. § 1738 a Constitutional Law passed by Congress.

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Judicial functions may enjoy immunity, denial of constitutional and civil rights are absolutely not a judicial function and conflicts with any definition of a judicial function."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment of the Constitution provides in part:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without Due Process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Due Process is a Constitutional Law that is protected by the fourteen amendment "The **Due Process** Clause of the **Fourteenth Amendment** is exactly like a similar provision in the **Fifth Amendment**, which only restricts the federal government. It states that no person shall be "deprived of life, liberty, or property without **Due Process** of law." Usually, "**Due Process**" refers to fair procedures."

28 U.S. Code § 1738 – State and Territorial **statutes** and judicial proceedings; full faith and credit. The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be

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authenticated by affixing the seal of such State, Territory or Possession thereto.

ARGUMENT

Washington State Supreme Court Official Act

"The State official can at under the color of law while they break the law, too. They can violate official policy and still maintain the appearance of state action. See, Home Telephone & Telegraph Co. v. Los Angeles, 227 U.S. 278 (1913)."

The Bartons also argue that jurisdiction to hear a Section 1983 claims rests exclusively with the federal courts. Any doubt that states courts may also entertain such actions was dispelled by Martinez v. California, 444 U.S. 277, 283-284 (1980). There, while reserving the question whether state courts are obligated to entertain §1983 actions, we held that Congress has not barred them from doing. The State did not appeal the Judgment against it.

4.14 Section 1983 – State-created Danger

Bartons challenged the use of federal officers to challenged State Constitutional Laws, 28 U.S.C. § 1738, bars a federal court from considering federal taking of claims where a state had interpreted the state takings claims are not ripe until plaintiffs first seek entry of a final judgment denying just compensation in state court. See, 28 U.S.C. § 1742 removal of

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federal officers that bars federal officers from ruling on state Constitution. See, "The Supreme Court suggested that federal judges MUST follow § 1738 when they are faced. If ever, should 1738 leave federal courts free to give greater preclusion effect to a state judgment than would the rendering state? The statute should place limits on such authority, use of 1738 categorically to prohibit greater preclusion is neither inevitable nor desirable."

"Extreme cases are more likely to cross constitutional limits, requiring this Court's intervention and formulation of objective standards. This is particularly true when Due Process is violated." By recognizing a nondiscretionary constitutional right to appeal, the Court can ensure that liberty and property rights remain protected even in the unusual or uninviting case."

"Federal pattern instructions. The United States Court of Appeals for the Ninth Circuit, along with other federal appellate courts, has published jury instructions for use in Section 1983 Civil Rights Act cases". See, e.g., Ninth Cir. Civ. Jury Instructions, Chapter 9, which can be found at http://www3.ce9.uscourts.gov/model-civil. Because federal law largely, governs civil rights cases under Section 1983, federal court of appeals instructions are appropriate to use as guides for crafting state court instructions. However, state trial courts must use caution when borrowing language from a federal pattern instruction – federal judges are not prohibited from making a comment on the evidence, while state trial courts are forbidden

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from doing so under the Washington State Constitution, article IV, section 16.

The fact the Federal Law of Section 242 requires any acts "under the color of law" include acts not only done by federal authority, if any legal act done by state, or any official within their lawful authority, however acts beyond the bounds of that official authority. Such an act against Congress, but also beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or local pretending to act in the pretending to at in the performance of hi her official duties. Persons acting under the color of law within . . . "as well as judges." It is not necessarily that the violation be motivated by animus toward the race, color, religion, Sex, handicap, familial status or national origin of the Bartons.

The fact a Section 242 violation is punishable by a "range of imprisonment up to a life term, or death penalty, upon the circumstances of the violation, and resulting injury, if any must the defendant then demonstrate that no genuine issue of material fact remains as to the 'objective reasonableness' of the defendant's belief in the lawfulness of his actions." Sherwood v. Mulvihill, 113 F.3d 396, 399 (3d Cir. 1997); see also Hynson By and Through Hynson v. City of Chester, 827 F.2d 932, 935 (3d Cir. 1987) ("Although the officials claiming qualified immunity have the burden of pleading and proof . . . , Bartons who seeks damages for violation of constitutional rights may overcome the defendant official's qualified immunity only by

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showing that those rights were clearly established at the time of the conduct at issue."

4.3 Section 1983 – Elements of Claim

Under 1983 under the color of law the Bartons must show under color law of any statute, ordinance, regulation, custom, of any State or Territory. The second element requires the Bartons show that they acted under color of law. The fact the Defendants' attorney had an oral motion without my present is the second time I was denied Due Process. The acting official Judge ruled against Due Process. The first violation of Due Process was in Washington State Supreme Court. The Defendants' attorneys, persuaded the Ninth Appeals Court to rule against 28 U.S.C. § 1738 as acting official the Ninth Circuit official for several territory within the United State. The Ninth was warned in Bartons' REPLIED BRIEF ON P 8 when all federal judges are required to follow 28 U.S.C. § 1738 thus they acted against the color of law, 28 U.S.C. § 1738 State and Territorial statutes and judicial proceedings; full faith and credit. The first violation of Due Process is a Constitutional Law that was enacted by the Senate and Congress. The second violation of 28 U.S.C. § 1738 was enacted by the Senate and Congress that a Constitutional Law use by every state. See, Adickes v. S.H. Kress & Co., 398 U.S. 144, 90 S. Ct. 1598, 26 L. Ed. 2d 142 (1970).

The Constitutional requirements of Due Process apply to garnishment and prejudgment attachment

procedures whenever state officers act jointly with a private creditor in securing the property in dispute. See, Sniadach v. Family Finance Corp., 395 U.S. 337, 89 S. Ct. 1820, 23 L. Ed. 2d 349.

4.41 Section 1983 – Action Under the Color of State Law is Not in Dispute

The fact Washington Supreme Court made a ruling against Due Process and 28 U.S.C. § 1738. Denied Bartons' day in court is undisputed by the Washington Supreme Court record. First Nat'l Bank, 115 Wn.2d 307, 317, 796 P.2d 1276 (1990); Bunch v. Nationwide Mut. Ins. Co., 180 Wn. App. 37, 42, 50, 321 P.3d 266 (2014).

4.4 Section 1983 – Action under Color of State Law

Washington Supreme Courts use a federal judge ruling against the Bartons. Washington State ruling which federal courts are not allowed. See, Bartons challenged the use of federal officers to challenged state Constitutional Laws, 28 U.S.C. § 1738, bars a federal court from considering federal taking of claims where a state had interpreted the state takings claims are not ripe until plaintiffs first seek entry of a final judgment denying just compensation in state court. See, 28 U.S.C. § 1742 removal of federal officers (1990), that bars federal officers from ruling on state Constitution. "The Supreme Court suggested that federal judges MUST follow § 1738 when they are faced. If

ever, should 1738 leave federal courts free to give greater preclusion effect to a state judgment than would the rendering state?

4.6 Liability in Connection with the Actions of Another

4.6 Liability in Connection with the Action of Monroe v. Pape, See, 365 U.S. 167, 81 S. Ct. 473 (1961). Monell v. Department of Social Services, the United States Supreme Court held that a city is a person for purposes of Section 1983. However, a state is not a "person" for purposes of Section 1983. In addition, state officials sued in their official capacities for damages or other retroactive relief are not persons for purposes of Section 1983 However, the court noted that a plaintiff may sue a state official for injunctive relief because that is prospective relief. While a state official may not be sued in their official capacity, the United States Supreme Court has held that state officials (judges) and local officials may be sued in their "personal" capacity where the suit seeks to impose individual, personal liability on the government See, Hafer v. Melo, 502 U.S. 21, 112 S. Ct. 358 (1991). Officer for actions taken under color of state law with the badge of state authority. See, A plaintiff who brings an action under Section 1983 for violation of rights secured by the Fourteenth Amendment must establish that the violation resulted from state action and, thus, meets the statutory requirement of under "color of state law." See, Lugar v. Edmondson Oil Company, 457 U.S. 922, 935, note 18, 102 S. Ct. 2744, 2753, note 18 (1982).

Independent contractors and other individuals who willfully participate in a joint activity with a state or a local agency may meet the requirements of acting under color of state law.

The fact Washington State Supreme Court use a federal ruling on a state action in violation of 28 U.S.C. § 1738 full faith and credit and imperatives of the fifth amendment to provide equal protection. Circuits concerning the jurisdictional prerequisites for appealing a 28 U.S.C. § 1738 and No. 14-17498 of the Ninth Appeals publish opinion; Claim Splitting while an Objection was filed with the 9th Circuit a timely appeal was submitted to the U.S. Supreme Court. The proof is in the Ninth Circuit ruling in Bartons. The Ninth Circuit ruled against their owned Publish opinion, No. 14-17498 D.C. No. 2:17-cv-01100-RA MEMORANDUM AFFIRMED SEPTEMBER 17, 2020.

4.6.1 Section 1983 – Supervisory Official Supervisory Liability Under 42 U.S.C. Section 1983

Section 1983 of the Civil Rights Act of 1871 creates a federal cause of action . . . that conduct was also action under the color of state law and will support a suit under § 1983. The fact the Ninth Circuit judges, ruled against a Constitutional Law 28 U.S.C. § 1738 full faith and credit which is proof the Supervisory Officials Ruled under the color of law. Suits under 42 U.S.C. Section 1983 are complex. To this disable Plaintiff who does not often litigate in the civil rights area, Section 1983 may seem a confusing constitutional law and

tort law. One of the important preliminary issues the Bartons must decide is who to include as a defendant. Section 1983's theory of constitutional wrongdoing without vicarious liability will seem strange to some Defendants. There are circumstances, however, in which a plaintiff may sue the supervisor (Judge) of the judges who immediately inflicted the injury. The Comment examines the intricacies of supervisory liability as determined by recent United States Supreme Court and circuit court decisions. In addition, this Comment suggests an amendment to Section 1983.

4.6.2 Failure to Intervene

Section 1983 of the Civil Rights Act of 1871 creates a federal cause of action . . . that conduct was also action under the color of state law and will support a suit under § 1983. See, LE Heinzerling (1986). To prevail in a claim under Section 1983, the plaintiff (Bartons) must prove two critical point: a person subjected the plaintiff to conduct that occurred under the color of state law, and this conduct deprived the plaintiffs of rights, privileges, or immunities guaranteed under federal law, and this conduct deprived the Bartons of rights, Privileges, or immunities guaranteed under federal law or the U.S. Constitution. Civil lawsuit for failure to Intervene are brought under 42 U.S.C. § 1983. "Liability under § 1983 requires proof of two essential elements proof of two essential elements that the conduct complained of (1) was committed by a person acting under the color of law. (2) deprived a person of rights, privileges, or immunities secured by

the Constitution or laws of the United States." See, Yang v. Hardin, 37 F.2d 84 (7th Cir. 1984).

The Ninth Circuit failed to intervene and they ruled against their own publish opinion No. 14-17498 D.C. No. 2:17-cv-01100-RA MEMORANDUM AFFIRMED SEPTEMBER 17, 2020. The Tenth Circuit also would have ruled for the Ninth Circuit of claim splitting. See, below.

Claim Preclusion, Res Judicata

"The 10th Appeals Court would of reverse the district/court's dismissal of almost all of Barton's claims as barred by a prior judgment of the United States District Court for the District of Washington; and remanded for further proceeding per the 9th Ruling of Inter Jurisdiction No. 14-17498. Bartons brought this action to recover debt from Chase entities affiliated with Quality Loan Service of purchase of Bartons property. Bartons previously filed suit in Washington King County District court seeking to enforce avoid agreement, and the court ruled against the Bartons. The court held that the summary judgment ruling of the federal district court in Washington (Res Judicata) on Bartons prior breach of contract claim (based on the Res Judicata) against The Bartons did not preclude Bartons from bringing the present Motion to Dismiss 60(b) for the 9th Appeals Ruling No. 14-17498.

The 10th would hold that because the claims in the present action and in the prior guaranty action did not arise from the same transaction or occurrence,

Washington version of traditional res judicata did not apply. The 10th Appeals Court further would held that although Washington entire controversy doctrine may have prevented Bartons from bringing the present claims in Washington, this procedural joinder rule did not bar the claims from being heard in the federal district court sitting in California. The 10th would conclude that the district court erred in ruling that the claims in the present action were precluded under Washington law. See, 9th Appeals Court Ruling No. 14-17498 and the 10th.

The Standard

The framework for establishing a successful Section 1983 claim for failure to Intervene may vary slightly by jurisdiction, however, the premise is subsequently the same. In the Seventh Circuit, "an Officer who is present and fails to Intervene to prevent other law enforcement Officers from infringing the Constitutional rights of citizens is liable under § 1983 if that officer who is present and fails to Intervene to prevent other from law enforcement Officers from infringing the Constitutional rights of citizens is liable under 1983 if that Officer who is present and fails to Intervene to prevent other law enforcement Officers from infringing the Constitutional rights of citizens is liable under § 1983 if that officer had reason to know. (1) that excessive force was being used. (2) that a citizen has been unjustifiably arrested. Or (3) that any constitutional violation has been committed by a law enforcement official and the judges had a realistic opportunity

to intervene to prevent the harm from occurring." See, Yang v. Hardin, 37 F.3d 282, 285 (7th Cir. 1994).

There is no difference between a law Officers and judges when it involves 1983 & constitutional laws. The Ninth Circuit Panel of Judges fail to protect the U.S. constitutional law 28 U.S.C. § 1738 which was introduced by Congress into law. The Ninth Circuit failure to Intervene is a violation of constitutional law. Not only did the Ninth Circuit rule against the Supreme Court law See, that was passed by Congress law 28 U.S.C. § 1738.

The Supreme Court plays an exclusive and indispensable role in preserving interstate comity through interpretation and enforcement of the Full Faith and Credit Clause 28 U.S.C. § 1738. When a state supreme court misapplies this Court's precedents and misconstrues the laws of a federal judgment in order to avoid a case, no other court has jurisdiction to provide relief. A 1983 writ under the color of law is necessary to remedy these constitutional and statutory violations and to reaffirm that the states' obligation to give full faith and credit extends even to federal judgments that address contentious matters of Constitutional Law and social policy. No other court has jurisdiction to provide relief. A 1983 under the color of law is necessary to remedy these constitutional and statutory violations and to reaffirm that the states' obligation to give full faith and credit extends even to federal judgments that address contentious matters of Constitutional Law and social policy.

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The U.S. Supreme Court has decided when judges perform judicial acts within their jurisdiction, they are absolutely immune from money damages lawsuit. When judges perform judicial acts outside the law it is called acting under the color of law, they do not have absolute immunity.

Actions of the Ninth Circuit can be classified as judicial misconduct including: conduct prejudicial to the effective and expedition's administration of business.

Actions that can be classified as judicial misconduct include: conduct prejudicial to the effective and expeditious administration of the business of the courts (as an extreme example: "falsification of facts" at summary judgment); using the judge's office to obtain special treatment for Defendants, harm from occurring." See, Yang v. Hardin, 37 F.3d 282, 285 (7th Cir. 1994).

All LLC Have Lost Their Veil of Protection

All the LLC have lost their veil of protection of LLC for fraud. Triangle LLC has lost their veil protection for violation of Washington state law for not having an active agent for receiving lawsuits. An LLC is required to have an active agent to receive lawsuits after dissolving an LLC. Since 1789, the Constitution's Article III, creating a system of federal courts to deciding "cases or controversies", Chase's attorney has claim there is no such federal issue of Claim Splitting and Res Judicata applies. Chase attorney is trying to make

new law from State court judgment to override Constitution law of Due Process and the Ninth Circuit ruled against their owned ruling of Claim Splitting No. 14-17498. See, Appendix 3a.

4.4.8.1 Compensatory Damages

As noted by the appellate courts, "Punitive damages may be awarded under 42 U.S.C. § 1983 when the defendant's' conduct is shown to be motivated by evil motivate or intent, or when it involves reckless or callous indifference to the federal protected rights of others." Under Title 42 § 1983 of the U.S. code, liability is imposed upon individuals and entities that at "under color of law." Based on the fourth Amendment, people have the right to be secure against unreasonable searches and seizures. Whether a judge has vi of aced constitutional rights

4.8 Section 1983 Damages

Quality Loan Service
Questioned Chase foreclosures

Quality Loan Service, in March of 2014 just one month before the Bartons' Illegal foreclosure of April 11, 2014. Regardless of Quality question Chase right of foreclosure Chase to foreclosure on WAMU Mortgages, Quality foreclosure upon the Bartons causing damages to the Bartons by illegal selling their family home of 61 years.

Quality failed to read the Public Recording warnings in the King County Records. Three times the damage cause to the Bartons. There are reports that some title insurers are indicating that they will not insure for this title defect.

Quality Foreclosure problem is real and potentially serious comes via a new "gotcha" practice by J.P. Morgan/Chase on foreclosure sales. Chase is sufficiently concerned about the risks of selling properties out of foreclosure that it is springing an addendum on buyers, shortly before closing, which effectively shifts all risk for any title deficiency on to the buyer.

If a bank like Chase does not have the right to foreclose, it cannot have clean title to the property. So the bank could, conceivably, be selling something it does not own.

On the surface, this document may not seem all that troubling. But what it does, in effect, is say "*Warning, warning, you are buying a property out of foreclosure, there is risk here*, and you can't hold us responsible for anything we told you in the sale process." Shouldn't you possibly evaluate the risk of buying a property out of foreclosure without asking the current owner? And if the current owner isn't legally responsible for what they say, or more important, what they deny is a problem, the buyer cannot perform effective due diligence. Quality Loan Service, a seller is liable for the representations they make about his wares. Legally Quality, a seller is liable for the representations he makes about his wares to Triangle of Washington,

and Triangle, is required to perform Due Diligence in selling a foreclosure to any buyer of a foreclose home. The Bartons' foreclosure 6548 caused unreversal damage to buyers of an illegal foreclosure to any buyer.

Washington: Newly adopted RCW 11.98.085 governs a beneficiary's available remedies in the event of a trustee's breach. Accordingly: (1) A trustee who commits a breach of trust is liable for the greater of: (a) The amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or (b) The profit the trustee made by reason of the breach. (REV. CODE WASH. § 11.98.085 (2015)). However, there is no case law at present that cites to the statute in support of a claim for damages. In the past, courts in Washington have operated under the "make whole" theory of damages (see, Gillespie v. Seattle-First National Bank, 855 P.2d 680, 693 (Wash. Ct. App. 1993)). Because claims for breach of trust are equitable, the court may grant whatever relief it deems is warranted, and place the trust in the same position as if the trustee had never breached its fiduciary duties.

The defective Res Judicata of claim spilling of Chase has cause others to be expose to three times the damage cause to the Bartons by their action. Regardless, all Defendants were warned about taking action against the Bartons in King County Records 12/29/2011. The warning can be seen in the Appendix. Three times the damage to the Bartons. See, 20a Public Notice.

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Triangle of Washington is Operating with Dirty Hands

Washington State is active looking for Triangle Property Development L.L.C. of Washington for not having an active Agent for receiving Lawsuit after dissolving an L.L.C. As required by Washington 18-8 Real Estate laws.

"To dissolve your LLC in Washington State, you must provide the completed Certificate of Dissolution form to the Secretary of State by mail, fax or in person."

A dissolved LLC may not carry on any business in Washington except as needed to wind up its business affairs (questionable transfer of Clouded Mortgage?).

Triangle Property Development L.L.C. of Washington failed to read the public records in King County that shows "Fraudulent Activity on this Property." The recordings were filed by the Bartons in December 29, 2011 before the illegal foreclosure of April 11, 2014.

The Public Warnings of anybody taking action against the Bartons, will be fine three times the damage. See, Public King County Records that were in front of the District Court before Judgment. See, Appendix.

Operating a Real Estate with Dirty Hands caused exposure to personal liability. If investment (such as Triangle Property Development of Washington) Real Estate is owned by an individual and not by an entity, the individual should review his or her personal

liability or umbrella insurance policy to ensure that the coverage is adequate given the increased risk. Inviting third parties to enter real estate owned by the client brings heightened risk of many types of legal claims, including landlord-tenant issues, structural accidents, environmental hazards, trespassing, and accidents from negligence, disasters or terrorism.

Triangle of Washington has been trespassing on 6548 for the last 72 months as of August 2020. This illegal foreclosure has caused the Bartons to lose $3,000 a month in rental income. A 72 month of loss of rental income is equal to $216,000 that the Bartons have lost because of Triangle's/Chase foreclosure. Triangle of Washington, illegal transfer of the Bartons' property to a third part that lacked Due Process. With additional lost for every month after August of 2020. Triangle of Washington, cause damage to the Bartons for their illegal foreclosure. Three times the damage to the Bartons which is the sale of our home at illegal foreclosure at the time of sale $646,000 times three which is considered concrete injury is $1,038,000.00. Regardless of any claims that Chase Bank causes this action, Triangle failed to read the Public Warnings which entitles the Barton's three times the damage.

FEDERAL CIVIL RULES PROCEDURE, RULE 54 Legal Fees for violation of 28 U.S.C. § 1738 and Fraud.

Fraud Upon the Court

Chase Bank give up their right to foreclose when Chase Bank lack proof of mortgage. See, Appendix 28a and UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT PUBLISHED OPINION rule against Claim Splitting No. 14-17498.....29a

Compensate Borrowers Who Have Been Harmed

William Hubbard, 'Efficient Definition' and Communication of Patent Rights: The Importance of Ex Post, Santa Clara Computer and High Technology Law Journal (January, 2009).

Chase must hire an independent consultant to conduct a 'look back' of all foreclosure proceedings, including Plaintiff's foreclosure, to evaluate whether Chase improperly foreclosed on any homeowners. Chase must establish a process to consider whether to compensate borrowers who have been harmed. The Federal Reserve has ordered Chase and other big banks to clean up their illegal foreclosure practices. This is the context in which Plaintiff filed suit." See, The New York Times reported on April 14, 2011.

Summary of William Hubbard

"To serve the constitutional law goal the need for ex-post or delineation cannot be eliminated; it would

be more efficient to adopt a new, relatively inexpensive administrative procedure to clarify claim scope without incurring the costs of full-blown litigation." There is no statute of limitations for bringing a fraud upon the court claim. See, Hazel-Atlas, 322 U.S. at 244. As a circuit court has explained, "a decision produced by fraud on the court is not in essence a decision at all and never becomes final." See, Kenner v. Comm'r of Internal Revenue, 387 F.2d 689, 691 (7th Cir. 1968).'

Service men were compensated for fraudulent and illegal foreclosure. The fraudulent errors, the ones reaping the $125,000 payouts, fit into three categories. The first covers active duty members of the military who were foreclosed on while protected by the Service members "Civil Relief Act". The OCC attorneys said they arrived at $125,000 for these worst errors in part because it's close to what the "Justice Department used in recent legal settlements with banks for violating that law." (In all cases, the cash compensation drops to $15,000 if the servicer returns the home to the borrower.) The $125,000 payment is the same regardless the size of the borrower's mortgage, but since homeowners aren't being required to waive any legal claims to accept the money, they could go to court to recoup more."

The Bartons see no difference for fraudulent and illegal foreclosure then a uniform for serviceman and servicewoman. Compensation must be paid for fraudulent and illegal foreclosure. See, By ruling of congress, See, Mortgage Irregularities for November 16, 2010) David Horton, "The Shadow Terms: Contract Financial

Stability and Foreclosure Mitigation See, (Procedure and Unilateral) in Appendix.

Attorney fees paid to Jill Smith $17,000.

(1) I am a paralegal and I charge $100 an hour, is about half the price of legal counsel. I round my hours down spend on my petitions. The hours spend are below:

(2) 9.5 Objection petition to WA Supreme Court 100 hours times $100 = $10,000 dollars.

(3) 17.7 petition to WA Supreme Court 100 hours times $100 = $10,000 dollars.

(4) Petition for rehearing within 30 days to WA Supreme Court 100 hours times $100 = $10,000 dollars.

(5) Petition to the Supreme Court 100 hours times $100 = $10,000 dollars.

(6) RAP 8.8 to WA Supreme Court 50 hours times $100 = $5,000 dollars.

(7) Filing of Appeal WA Supreme Court $100 times 10 hours = $10,000 dollars.

(8) The 100 hours times $100= $10,000 for the Federal petition to the Ninth Circuit plus $400 filing.

(9) Petition to the U.S. Supreme Court 162 hours times $100= $16,200.00 U.S. Dollar plus $300 filing.

The concrete legal fees with three times equal $1,757,001.70.

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(10) First Supreme Court Appeal to printer services invoice $825, invoice $752 and $300 Supreme Court filing Fee total $1,877.00 dollars Total $1,775,787.

4.8.3 Section 1983 – Punitive Damages

Quality Loan Service, In March of 2014 just one month before the Bartons Illegal foreclosure of April 11, 2014. Regardless of Quality question Chase right of foreclosure Chase to foreclosure on WAMU Mortgages, Quality foreclosure upon the Bartons causing damages to the Bartons by illegal selling their family home of 61 years. However, Quality Loan Service failed to intervene.

Triangle Damages

COMPENSATORY. Compensatory damages are generally the most identifiable and concrete type of damages;

GENERAL. General damages are sought in conjunction with compensatory damages . . .

PUNITIVE. Punitive damages are meant to punish a Defendant (Triangle of Washington) for particularly egregious;

Punitive damages have been allowed one times the compensation value.

Compensation must be paid for concrete losses of the Bartons.

The stealing of Bartons one ton dual 4x4 worth $5,000 from the Bartons property and then towed it to Easter Washington, for sale knowing I'm disable and cannot make the trip to try and recover my family truck.

Triangle also stole my motorcycle worth $500 and put it on back of my truck for transport and sold them. Triangle kept all funds.

The Bartons lost rental income of $3,000 a month before Triangle made changes to 6548 41st Ave SW Seattle.

The taking of personal property from the Barton's home value at $10,000 and then sold them and kept all of the funds.

Triangle of Washington had me removed to rest home for medical for three months $2100 a month estimate is $6300.

The Supreme Court looks at three factors of degree of reprehensibility.

"1. The degree of reprehensibility of the Defendant's misconduct.

2. The disparity between the actual or potential harm suffered by the Bartons and the punitive damage award and:

3. The difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases."

The fact Triangle of Washington, stole the family truck and transported hundreds of miles away to be sold was done in bad faith just to make it impossible for this disable person to retain the one ton dual 4x4.

The fact Triangle remains in hiding and they have no agent for receiving a lawsuit because The Bartons server (ABC) could not serve the Bartons' lawsuit, the Bartons were put under great stress, additional expense of finding Triangle's attorney and serving the federal district court lawsuit. Triangle has moved several times in Washington state just to avoid lawsuit because Triangle, has use the courts to steal homes in foreclosure because they had forty or more homes on the foreclosure list in Redmond, Washington before going out of Business in Redmond, Washington. The reason Banks sell foreclosure is so they don't have additional legal expenses in foreclosure and loss of home.

For the above reason the Bartons are asking for the Supreme Court guide lines of one times the compensation for punitive damages which is $1,775,870. dollars For Supreme Court guide lines for punitive damage with foreclosure that lack Due Process.

Because of the coronavirus, the Bartons asked for funds to be paid in electronic funds or Gold. All of Triangle improvements destroyed the Bartons home of ten-foot ceiling on the main floor. The removal of a weight bearing wall puts the Bartons at risk. If Triangle tries to recoup the cost of their alternation? The

Bartons will offset those charges for the damage done to the Bartons home or cross claim.

The concrete legal fees $60,000.00 and 4x4 dual wheels family truck worth $5,000.00 Motorcycle worth $500.00. Printing services invoice $825, invoice $752 and $300 equals $1,877.00. and $10,000 in home contends.

Loss of rental income for 6548 41st Street SW, Seattle, Washington, for 83 months at $3.000 is equal to $279,000

Punitive damages by Supreme Court ruling is one-time $1,775,770.00 charge as outlined in the Supreme Court reasoning.

Added the total concrete damages of $177,577.00. That are compensation dollars loss of the Bartons and the recently decided case See, State Farm Mutual Automobile Insurance Company v. Campbell, 538 U.S. 408 (2003).

Quality Loans Service Damages

1. Quality Loans Service question Chase (QLS) right to foreclose on WA M U/Chase homes in March of 2014 one month before Bartons illegal foreclosure. QLS foreclose upon the Bartons for the greed of money causing stress to the Bartons.

2. QLS violated WA. State RCW selling the Bartons home's 435 days past posting. Washington RCW requires the home to be sold within 120 days

3. Chase Bank has omitted the PEOPLE signing the affidavit had no knowledge of the foreclosure. Regardless. QLS foreclose causing damage to the Bartons which entitles the Bartons to punitive damages.

4. Washington: Newly adopted RCW 11.98.085 governs a beneficiary's available remedies in the event of a trustee's breach. Accordingly:

5. (1) A trustee who commits a breach of trust is liable for the greater of:

6. (a) The amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or

7. (b) The profit the trustee made by reason of the breach. (REV. CODE WASH. § 11.98.085 (2015)).

8. In the past, courts in Washington have operated under the "make whole" theory of damages (see, Gillespie v. Seattle-First National Bank, 855 P.2d 680, 693 (Wash. Ct. App. 1993)). Because claims for breach of trust are equitable, the court may grant whatever relief it deems is warranted, and place the trust in the same position as if the trustee had never breached its fiduciary duties Id.

4.12.4 Section 1983 Unlawful

Probable Cause "There is three basic awards that can come out of a Section 1983 claim against judges-compensation damages, punitive damages, and attorney's fees." Typically, Plaintiffs (Bartons) receive

compensatory damages when they prevail on their claim, March 10, 2010. Every person under color of any statute, ordinance, regulation, custom or usage, of any state or Territory or the District of Columbia, subject, or causes to be subjected, any citizen of the United States or other person within the jurisdiction. See, Doe, 536 U.S. 273 (2002); 42 U.S.C. § 1983 (Aug. 10, 2020). A person has the right to sue a state official for violating a federal statute (28 U.S.C. § 1738), just as one can sue the official for violating a duty under the Constitution. The key point, for the Eleventh Amendment purposes, is the legal fiction that § 1983 suit against individual (judges) officers are not suit against state. As previously stated, judges in joy immunity except when they violated the U.S. Constitution. A civil rights violation is any offense that occurs as a result or threat of force against a victim by the offender on the basis of being a member of a protected category. The Bartons and the people, want transparency and truth in justice. Therefore we do not want damages from hard working judges; they are only human and are subject to mistakes. The Bartons ask for an injunction in order to prevent expensive litigation of unjust laws.

Washington State is protected by the doctrine of sovereign immunity from having to pay damages in most cases They may only be sued for injunctive relief to prohibit Constitutional Violation, not afterwards for any damages. All officials receive some form of immunity from damages. As stated earlier, the Bartons are asking for an injunction in order to prevent future action of unjust laws. Example of Civil Rights

Violation-Denial of notice or an opportunity to be heard. INVOLVED Sections 5 and 14 of the Fourteenth Amendment; Section 14 of the Constitution, "In reenacting § 5 in 2006, Congress clearly stated its purpose was "to ensure that the right of all citizens to have Due Process.

The amendment contains several clauses that at provide protection against governmental abuse off law. Another clause says that no one "shall be deprived of life, liberty, or property without Due Process of law." The amendment protects individuals."

4.12.2 Section 1983 – Unlawful Seizure – Probable Cause

"There are three basic awards that can come out of a Section 1983 claim against judges-compensation damages, punitive damages, and attorney's fees". Typically, Plaintiffs (Bartons) receive compensatory damages when they prevail on their claim, March 10, 2010. Every person under color of any statute, ordinance, regulation, custom or usage, of any state or Territory or the District of Columbia, subject, or causes to be subjected, any citizen of the United States or other person within the jurisdiction. See, Doe, 536 U.S. 273 (2002); 42 U.S.C. 1983 (Aug. 10, 2020). A person has the right to sue a state official for violating a federal statute (28 U.S.C. § 1738), just as one can sue the official for violating a duty under the Constitution. The key point, for the Eleventh Amendment purposes, is the legal fiction that § 1983 suit against individual (judges) officers are

not suit against state. As previously stated, judges in joy immunity except when they violated the U.S. Constitution. A civil rights violation is any offense that occurs as a result or threat of force against a victim by the offender on the basis of being a member of a protected category. The Bartons and the people, want transparency and truth in justice. Therefore, we do not want damages from hard working judges; they are only human and are subject to mistakes. The Bartons ask for an injunction in order to prevent expensive litigation of unjust laws.

Washington State is protected by the doctrine of sovereign immunity from having to pay damages in most cases. They may only be sued for injunctive relief to prohibit Constitutional Violation, not afterwards for any damages. All officials receive some form of immunity from damages. As stated earlier, the Bartons are asking for an injunction in order to prevent future action of unjust laws. Example of Civil Rights Violation-Denial of notice or an opportunity to be heard. INVOLVED Sections 5 and 14 of the Fourteenth Amendment; Section 14 of the Constitution, "In reenacting § 5 in 2006, Congress clearly stated its purpose was "to ensure that the right of all citizens to have Due Process. The amendment contains several clauses that provide protection against governmental abuse of law. Another clause says that no one "shall be deprived.

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MALICIOUS-INJURY

"For conduct to be malicious, the Bartons must prove that the creditors and courts:

(1) committed a wrongful act;

(2) done intentionally;

(3) which necessarily causes injury; and

(4) was done without just cause or excuse."

In re Su, 290 F.3d at 1143. See, Appendix where Bankruptcies Court of the Ninth Circuit knew they must rule in support of 28 U.S.C. § 1738. If you have a legacy (older than 2014) e-filing account in the 9th Circuit.

The Ninth Circuit knew they must follow 28 § U.S.C. 1738 Emphasis added.

"The Ninth Circuit Bankruptcy Panel (BAP) (2014) recently published a decision that is . . . The Rooker Feldman doctrine, established by two U.S. Supreme Court . . . that the State Court ruling, then . . . on Full Faith and credit Statute, 28 U.S.C. 1738."

This is positive proof that the Ninth Circuit knew of the Supreme Court ruling on 28 U.S.C. § 1738 must be followed. In the Ninth Circuit decision ruled against two of their rulings in the Bartons foreclosure. (1) 28 U.S.C. § 1738. (2) the Ninth Circuit ruled against claim splitting No. 14-17498. Not to even mention the lack of Due Process. The Rooker-Feldman doctrine prohibits lower federal courts from exercising appellate review over state-court judgments. See, Exxon Mobil Corp. v.

Saudi Basic Indus. Corp., 544 U.S. 280, 284-85 (2005). See, Appendix" Supreme Court October 28, 2019."

Even if the district federal court could legally access State documents there's a conflict of jurisdiction that's against the U.S. Constitution and the framers of the Constitution only allowed the Supreme Court access to State records. Chase Bank and Triangle of Washington should not be allowed to block this from public view. Chase Bank, Quality Loans and Triangle of Washington should not be able to claim private information of operating business tainted with FRAUD. Homeowner's can sue in federal court where there is no time limit for FRAUD.

CONCLUSION

Bartons is an important case. The ruling of the Supreme Court of Washington purports to render an entire class of home owner's decrees categorically unenforceable in Washington state courts. If left unchecked, the decision will destabilize home owners and erode the comity between states and federal use that the Full Faith and Credit Clause and its implementing legislation were created to preserve. Only this Court has the power to enforce the requirements of the Constitution and the command of Congress.

The Ninth Circuit does not get to decide (dictate) where it will be held accountable, the Ninth Circuit ruling against 28 U.S.C. § 1738 a Constitutional Law passed by Congress is against the color of law. This

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decision sends a loud and clear message that no one is above the law, not even one is above the law. Not even one of the most powerful appeals court in the country. The Ninth Circuit cited lingering issues of secrecy and lack of transparency by ruling under the color of law.

Public Faith in Due Process Will Suffer

"The foreclosure documentation irregularities unquestionably show a system riddled with errors. But the question arises: Were they merely sloppy mistakes, or were they fraudulent?" Public Faith in Due Process Will Suffer. "If the public gains the impression that the government is providing concessions to large banks in order to ensure the smooth processing of foreclosures, the people's fundamental faith in due process could suffer."

The Bartons urge this Court to grant the petition lest other states follow the Ninth Appeals Court lead.

DATED: July 16, 2021

Respectfully submitted,

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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JEAN MARIE BARTON; BYRON LEE BARTON, individually and on behalf of all others similarly situated, Plaintiffs-Appellants, v. QUALITY LOAN SERVICE CORP OF WASHINGTON; TRIANGLE PROPERTY OF WASHINGTON, Defendants-Appellees.	No. 18-35798 D.C. No. 2:17-cv-01100-RAJ MEMORANDUM* (Filed Sep. 17, 2020)

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted September 8, 2020**

Before: TASHIMA, SILVERMAN, and OWENS, Circuit Judges.

Jean Marie Barton and Byron Lee Barton appeal pro se from the district court's judgment dismissing

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

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

their action alleging federal and state law claims arising out of foreclosure proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002) (dismissal based on claim preclusion); *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (sua sponte dismissal under Fed. R. Civ. P. 12(b)(6)). We affirm.

The district court properly dismissed the Bartons' action on the basis of res judicata because the Bartons' claims were raised or could have been raised in previous actions between the parties that resulted in final adjudications on the merits. *See San Diego Police Officers' Ass'n v. San Diego City Emps.' Ret. Sys.*, 568 F.3d 725, 734 (9th Cir. 2009) (federal court must follow state's preclusion rules to determine effect of a state court judgment); *Ofuasia v. Smurr*, 392 P.3d 1148, 1154 (2017) (elements of res judicata under Washington law).

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

AFFIRMED.

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RECAPTURE

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEAN MARIE BARTON, BYRON LEE BARTON, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, Plaintiffs, v. JPMORGAN CHASE BANK, N.A., QUALITY LOAN SERVICE CORP. OF WASHINGTON AND TRIANGLE PROPERTY OF WASHINGTON, Defendants.	No. 2:17-cv-01100 RAJ ORDER (Filed Sep. 6, 2018)

On May 11, 2018, this Court granted Defendant JPMorgan Chase, Bank, N.A.'s ("Chase") Motion to Dismiss, finding that Plaintiffs' claims were barred by res judicata. Dkt. # 26. On July 12, 2018, Chase filed a Motion for Entry of Separate Judgment under Fed. R. Civ. P. 54 and 58. Dkt. # 27.

On August 14, 2018, this Court granted Chase's Motion and entered final judgment against Plaintiffs and for Chase. Dkt. # 33. This Court also instructed Plaintiffs to show cause within two weeks of the date of the Order why this matter should not be dismissed

as to the other defendants, Quality Loan Service Corp. of Washington ("Quality") and Triangle Property of Washington ("Triangle"), for the same res judicata reasons outlined in this Court's Order on May 11, 2018 (Dkt. # 26). *Id.* The Court explicitly warned Plaintiff that if they failed to make such a showing as to Quality and Triangle, the Court would "dismiss Plaintiffs' claims and enter judgment against Plaintiffs as to all Defendants." *Id.* at 3.

Over three weeks have passed, and Plaintiffs have made three filings; an "Answer to Chase Claims" (Dkt. # 35), an "Amended Answer to Chase Claims and Judge's Proposed Order re Answer to Chase Claims" (Dkt. # 36), and an untimely "2nd Amended Answer" (Dkt. # 37). The two timely filings are nearly identical. Both filings essentially reargue Plaintiffs' case against Chase (who has already been dismissed), mad do not purport to address this Court's August 14, 2018 Order or res judicata in any form. Dkt. ## 35, 36. These filings also do not address the claims against Quality or Triangle. The only reference to Quality is in an e-mail attached as an exhibit, where Quality is apparently named in the title of a 2014 article. Dkt. # 35 at 15; Dkt. # 36 at 18. The only reference to Triangle is an unsupported allegation that Triangle towed and sold the Bartons' truck and motor cycle. Dkt. # 35 at 5-6; Dkt. # 36 at 8-9. Neither filing addresses the fact that both Quality and Triangle were previously defendants in one or more of the Bartons' previously-dismissed lawsuits on these claims. *See*, *e.g.*, *Barton v. JPMorgan Chase Bank, NA.*, No. CI3-0808RSL, (W.D. Wash. 2013)

(Quality and Chase included as defendants); *Barton v. JPMorgan Chase Bank*, N.A., No. C12-1772JCC (W.D. Wash. 2012) (same); *Barton v. JP Morgan Chase Bank, N.A.*, 196 Wash. App. 1007 (2016) (unpublished) (Chase and Triangle included as defendants). Neither filing addresses the fact that Plaintiff s claims were, or could have been, brought against Quality and Triangle in previous lawsuits. Dkt. # 26. Neither filing presents any reason why this case should continue against Quality or Triangle. The third filing, the "2nd Amended Answer," in untimely per the Court's Order to Show Cause, and although it vaguely alleges that Triangle has with issues clouded titles, it fails to address why Plaintiffs claims as to Triangle should not be dismissed due to res judicata. Dkt. # 37.

The Court thus concludes that Plaintiff has failed to show cause why this case should not be dismissed as to Quality and Triangle based on the res judicata grounds identified in its May 11, 2018 Order (Dkt. # 26). Where "the plaintiffs cannot possibly win relief." the trial court may *sua sponte* dismiss claims for failure to state a claim. *Sparling v. Hoffman Const. Co.*, 864 F.2d 635, 638 (9th Cir. 1988); *Edwards v. Caliber Home Loans*, No. C16-1466-JCC, 2017 WL 2713689, at *3 (W.D. Wash. June 7, 2017), *aff'd sub nom. Edwards v. Caliber Horne Loans, Inc.*, 708 Fed. Appx. 438 (9th Cir. 2018) (dismissing claims against the defendant trustee in a wrongful foreclosure action despite defendant trustee's failure to join in the other defendants' motion to dismiss). Based on the record and Plaintiff's failure to show cause, the Court concludes that

Plaintiffs claims against all Defendants are barred for the reasons outlined in its May 11, 2018 Order. Dkt. # 26.

Accordingly, Plaintiffs' claims as to Defendants Quality and Triangle are **DISMISSED WITH PREJUDICE**. The Clerk of Court shall enter final judgment against Plaintiff's and for Defendants Quality and Triangle.

DATED this 6th day of September, 2018

/s/ Richard A. Jones
The Honorable Richard A. Jones
United States District Judge

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THE SUPREME COURT OF WASHINGTON

BYRON BARTON, et ano.,

Petitioners,

v.

JP MORGAN CHASE BANK, et al.,

Respondents.

No. 93777-0

ORDER

Court of Appeals
No. 73336-2-I

Department II of the Court, composed of Chief Justice Fairhurst and Justices Madsen, Stephens, Gonzalez and Yu, considered at its February 7, 2017, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the Petition for Review is denied. Petitioner's motion to file a supplement to the Petition for Review and "Supplemental Motion 9.5 Objection" are also denied. Respondent JP Morgan Chase Bank's request for attorney fees is denied.

DATED at Olympia, Washington, this 8th day of February, 2017.

For the Court

/s/ Fairhurst, C.J.
CHIEF JUSTICE

SULLIVAN & CROMWELL LLP
TELEPHONE: 1-310-712-6600
FACSIMILE: 1-310-712-8800
www.sull.crom.com

1888 Century Park East
Los Angeles, California 90067-1725
[Illegible]

September 12. 2014

Via FedEx

Federal Deposit Insurance Corporation,
Receiver of Washington Mutual Bank,
Henderson, Nevada
1601 Bryan Street, Suite 1701,
Dallas Texas 75201.

Attention: Reginal Counsel
(Litigation Branch) &
Deputy Director (DRR –
Filed Operations Branch)

Re: Indemnification Obligations

Dear Sirs.

We refer to the Purchase and Assumption Agreement Whole Bank, dated as of September 25, 2008 (the "Agreement") by and among the Federal Deposit Insurance Corporation in its corporate capacity ("FDIC Corporate") and as receiver ("FDIC Receiver" and, together with FDIC Corporate, "FDIC") and JPMorgan Chase Bank, N.A. (together with its subsidiaries and affiliates, "JPMC") relating to the resolution of Washington Mutual Bank Henderson, Nevada ("WMB"). This letter supplements our prior indemnification

notices and provides you with written notice of additional matters for which JPMC is entitled to indemnification under Section 12.1 of the Agreement.

The additional matters giving rise to JPMC's indemnity rights relate to costs incurred in connection with mortgages held by WMB prior to September 25, 2008. Theses costs have resulted from aspect of—and circumstances related to—WMB mortgages that were no reflected on the books and records of WMB as of September 25, 2008, and include:

(a) Costs incurred by JPMC associated with individual assignments of WMB mortgages. Where JPMC has initiated foreclosures on properties associated with mortgages that were held by WMB prior to its Receivership, JPMC has performed individual assignments of the associated mortgages/deed of trust and allonges to comply with a recent appellate-level court decision in Michigan so as avoid potential additional expense and/or liability. In so doing, JPMC has incurred additional recording and legal fees. Limited Power of Attorney costs, as well as quantifiable costs associated with increased staffing to address these issues.

(b) Costs incurred by JPMC associated with preparing and submitting, and/or updating information on, lien release documents related to WMB-serviced loans that were paid in full prior to September 25, 2008.

(c) Costs incurred by JPMC to expunge records associated with WMB mortgages as a result of

errors in mortgage documentation occurring prior to September 25, 2008, including erroneously recorded satisfactions of mortgages and associated legal fees and disbursements.

(d) Cost incurred by JPMC to correct various defects in the chains of title for WMB mortgages occurring prior to September 25 2008, including recording and legal services fees.

At the time of WMB'S closure, the above liabilities were not reflected on its books and records. (If you disagree, please identify where on WMB's books and records such a liability was reflected.) As you know, the liabilities assured by JPMC were limited to those on WMB's "Books and Records," with a "Book of Value," when WMB was closed. JPMC did not assume any WMB liabilities that did not have a book value on WMB's books and records at the time WMB was placed into receivership, nor did it assume, for those liabilities on WMB's books and records, liability for any amounts in excess of such book value. Thus, any liability for conduct that precedes WMB's close remains with FDIC.

JPMC is advising you that the liability it may incur in connection with these matters, including the costs and expenses it incurs in defending against any action that may arise in relation to these matters, as well as the amount of any settlement or adverse judgment, are subject to indemnification by the FDIC pursuant to Section 12.1 of the Agreement.

As you are aware from previous correspondence notifying you of the FDIC's indemnification obligations in other matters, the matters identified in this letter are not intended to be exhaustive or to constitute a settlement that no other facts have or may come to our attention that could result in claims for which indemnification is

* * *

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RECAPTURE

Jean Barton
6548 41st SW
Seattle, Washington 98136
Date 05/02/2014

SWORN OTAH AND VERICATION OF BARTON'S AUDIT

I, Jean Marie Barton, Oath, with unlimited liability, proceeding in good faith being of sound mind states that the facts contained herein are true, complete correct, and not misleading to the best of private my firsthand knowledge and belief under penalty of perjury.

(1) The nine page audit of Barton's Washington Mutual loan is a summary of 482 page audit for the court to review,

(2) The Washington Mutual loan proves Chase Bank has no standing to foreclose on Washington Mutual loans.

(3) The banker that perform

(4) The Washington Mutual loan audit has twenty five years year of banking services and knows banking procedure.

SUBSCRIBED AND SWORN /s/ Jean Marie Barton
Jean Marie Barton

IN WITNESS WHEREOF, I, a notary Public of the State of Washington. Duly commissioned and sworn. Have hereunto set my hand and affixed my official seal in King County at Seattle on this date of May 02, 2014.

/s/ Barry L. Chastain
Notary Barry L. Chastain Seal

BARRY L. CHASTAIN
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JULY 9, 2015

My commission expires 7/9/2015

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[LOGO]

PALADIN ASSOCIATES

SUMMARY AND CONCLUSION

In preparation for this narrative summary, the auditor has thoroughly reviewed each document submitted for review. Above is the verified timeline that applies to this Loan. In addition, information from other sources has been researched and included as deemed appropriate. Although not expressly stated in the Client Intake Sheet, it is assumed that the purpose of the Borrowers engagement of this review is to determine whether the foreclosing party has legal standing to sell the property; and if not, whether information ascertained in conjunction with this audit might assist in either 1) further delay and/or 2) prevent outright the foreclosure of the property.

It should be noted that the primary document for review in an audit is the Promissory Note. We have been provided with a copy of the Note, which contains the borrower's signature, however it is stamped as a true and correct copy by the closing attorney, indicating that the copy was made in 2007 at the time of signing. We do not see that the original Note has been provided to the borrower for inspection, as allowed for under the Uniform Commercial Code. We do not see any assertion by the lender that it has lost the original note (a Lost Note Affidavit).

We have not been provided with an Assignment of Deed of Trust, transferring beneficial interest of the Deed to any other entity. We do not see that this loan

has been securitized in a Mortgage-Backed transaction.

We have not been provided with a Substitution of Trustee appointing Quality Loan Service Corp. of Washington to act as a foreclosure trustee on behalf of the Deed of Trust.

We have recently reviewed the sworn testimony of Lawrence Nardi, an officer of PJMorgan Chase Bank, N.A. and the operations Unit Manager that handles contested and litigated matters with inside and outside counsel. The deposition was taken on May 9, 2012 in the matter of JPMorgan Chase Bank, N.A. vs Sherone Waisome, et al In The Circuit Court of the Fifth Judicial Circuit, in and for Lake County, Florida. The deposition has been included as an exhibit, and it appears that a schedule (list) of the loans that JP Morgan Chase Bank, N.A. acquired from Washington Mutual does not exist. Loans may have be sold or paid off under Washington Mutual, but apparently JPMorgan Chase is trying to do "the best they can with what they have" from WAMU.

We do not see that JPMorgan has shown standing to foreclose in this matter. We do not see that JPMorgan Chase has been able to produce the original note. We do not see that JPMorgan Chase has presented proof that this is a loan that is purchased in the acquisition of WAMU assets.

If it is determined that the Note and Deed of Trust are held by different entities, the loan would be considered

bifurcated*, and the security instrument would no longer have the validity to foreclose on the property.

***Bifurcated**

In Carpenter v. Longan 16 Walls 271, 88 U.S. 271, 21 Led. 315 (1872), the United States Supreme Court stated, "The note and mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while assignment of the latter above is a [illegible]." The obligation can exist with or without security but a security interest cannot without the underlying existing] obligation{dots}so if all you get is the mortgage and not the note, that's pretty much worthless, or you have a Note without collateral.

September 19, 2011 dated REVOCATION OF POWER OF ATTORNEY was executed by Jean Marie Barton, revoking the power of attorney clause in the Deed of Trust (security instrument) recorded in the King County of Records # 20070814001629 and # 2007081 4001629, empowering First American, a California corporation to act as "Trustee", and Washington Mutual bank, ITS SUCESSOR OR ASSIGNS to act in my behalf as my true and lawful attorney. The document was recorded on 9/19/2011 as document # 20110919001034, King County, WA.

September 19, 2011 dated NOTICE OF INTENT TO PRESERVE AN INTEREST, executed by Jean Marie Barton. The document states it is intended to preserve a security interest in real property from extinguishment pursuant to section 880.320 et seq of the Civil

Code of the State of California. The Notice states that Chase was requested to answer a Proof of Claim, and failed to comply within 20 days. The document was recorded on 9/19/2011 as Document No. 20110919001035, King County. WA.

December 29 2011 dated AFFIDAVIT & PUBLIC NOTICE REFERENCE FRAUDULENT ACTIVITY TO THIS PROPERTY, executed by Jean Marie Barton.

June 30, 2010 dated NOTICE OF 'TRUSTEES SALE executed by Deborah Bristle, Vice President of California Reconveyance Company, as Trustee Setting an auction sale (Trustees Sale) for July 27, 2010 at 10:00 AM., at the South entrance to the County Courthouse, 220 West Broadway, San Diego, CA. The Document was Recorded July 02. 2010 as Document No.2010-0335053, Official Records, San Diego County Recorder's Office,

September 29, 2010 dated QUIT CLAIM DEED, executed by Sean Park and Michelle Park, as Trustees of the Sean and Michelle Park Family Trust dated July 2, 2003, granting all interest in the above reference property to Sean M. Park. The document recorded on September 29, 2010 as document number 2010-0520448, Official Records, San Diego County Recorder.

June 08, 2011 dated NOTICE OF TRUSTEE'S SALE executed by Casey Kealoha, Assistant Secretary of California Reconveyance Company, as Trustee Setting an auction sale (Trustee's Sale) for July 01, 2011 at 10:00 AM, at the South entrance to the County Courthouse, 220 West Broadway, San Diego, CA. The Document was

Recorded June 10, 2011 as Document No.2011-0295893, Official Records, San Diego Coney Recorder's Office.

April 27, 2012 dated NOTICE OF TRUSTEES SALE executed by Maria Mayorga, Assistant Secretary of California Reconveyance Company, as Trustee Setting an auction sale (Trustee's Sale) for May 18, 2012 at 10:30 AM, at the entrance to the East County Regional Center by statue, 250 E. Main Street, Cajon, CA 92020. The Document was Recorded April 27, 2012 as Document No. 2012-0246261. Official Records, San Diego County Recorder's Office.

May 7, 2013, dated NOTICE OF DISCONTINUANCE OF TRUSTEE'S SALE was executed by Paul Hitchings, Assistant Secretary of Quality Loan Service Corporation of Washington, discontinuing the Trustee's Sale set by the Notice of Trustees Sale recorded on 4/5/2013, under Auditors number 0130405001344. The document was recorded electronically as 2013050 9001797 on 5/09/2013. King County Washington.

Prepared by: Jean Marie Barton After recording return to: Jean Marie Barton 6548 41st Ave SW Seattle, WA 98136 206 935 9384	)	20111229001774 CASH/BARTON N 78.99 PAGE 001 OF 615 12/28/2011 12:23 KING COUNTY, WA **ORIGINAL** —Above This Line Reserved For Official Use Only—

Affidavit & Public Notice Reference
Fraudulent Activity Related To This Property

I, Jean Marie Barton, of 6548 41st Ave SW, city of Seattle, county of King, state of Washington, the undersign Affidavit having been duly sworn, depose and states truthfully, for the record regarding the below property, the following information.

The legal description of this property to the best of my knowledge based on public records is:

Abbreviated Legal; Lt 3-4 BLK.3 GATEWOOD-GARDENS V.25 P. 15

Tax Parcel Number. 271910010

Also known as 6548 41st Ave SW Seattle, WA 98136

Regarding the following recording information on King County Public Records

Mortgage Allegedly Signed:

On August 06, 2007 and record on August 14, 2007 DEED OF TRUST loan # 3014060077-068 (security Instrument) recorded in the King County of Records

20070814001628 and loan # 0772783908 recorded in the King County 2007081001629 between BYRON L. BARTON AND JEAN BARTON, HUSBAND AND WIFE dated August 06, 2007 given to, and empowering First American, a California corporation, located at 1567 Meridian Ave "800 Seattle, WA 98121 to act as "Trustee" is hereby replace for "default of proof of claim and fraudulent signatures of Jean M Barton, upon the recorded Mortgage, Deed of Trust or Security instrument are forgery(s) by unknown Washington Mutual agent(s), J.P. Morgan; Chase Bank the unrecorded Beneficiary and Successors or assigns allegedly claims the mortgage has not been fully paid off, satisfied, not discharged, but instead continues to exist in attempts to collected on a VOID or NULLY contract even though Chase knowingly knew that a Breach of Contract and/or fraudulent signatures are present to the recorded Mortgage or Deed of Trust in violation of law.

1. The Forensic Document Examiner Report of Brain Forrest, is undisputed by WAMU, J.P. Morgan and Chase Bank. WAMU, J.P. Morgan and Chase Bank "Failure Proof of Claim" is undisputed and have exhausted all administrative remedy. That the Respondent(s) removed their Trustee of record by written notice dated September 30, 2011 ref 0290-01 IF 1A 273-000000000000.

2. 'That, according to the Proof of Claim and Forensic Document Examiner Report, the Respondents are now in DEFAULT and WITHOUT RECOURSE and no evidence has been presented to the contrary. (See Exhibit

C Forensic Document Examiner Report of Brain Forrest).

3. If the Bank or the Bank's continue to attempt to collected on a NULLY and VOID contract or attempt to foreclose on this property after this declaration, then they do so knowing they have no standing or right of enforcement. Therefore, doing so will make them guilty of extortion, theft and fraud. All Federal felonies punishable with prison time.

4. Should the Bank's take any form action of Public recording such as Affidavit of Correction, Affidavit of Erroneous Recording, Affidavit of Erroneous Release and/or legal action upon the NULLY and. VIOD contract and/or proceed with foreclosure action, they do so at their full commercial liability and shall be named a co-defendant against them in a wrongful civil action 3 x damages.

Jean M Barton is knowledgeable makes this affidavit for the purpose of giving notice to correct the above-described instrument, mortgage and, or Deed of Trust by Striking the Bank's mortgage contract 3014060077; 0772783908 in entirely for payment(s) is NULL and VIOD for Breach of Contract and fraudulent actions of the Banker's that impaired the mortgage.

Dated; December 29, 2011.

/s/ Jean Marie Barton
Principal Jean Marie Barton
State of Washington
County of King

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NOTARY

IN WITNESS WHEREOF, I, a notary Public of the State of Washington duly commissioned and sworn, have hereunto set my hand and affixed my official seal in the King County at Seattle on this date of December u, 2011

/s/ Barry L. Chastain
Barry L. Chastain

BARRY L. CHASTAIN
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JULY 9, 2015

Notary

My commission expires 7/9/2015

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Return to:	20070814001628
WASHINGTON MUTUAL BANK PA	FIRST AMERICAN BA $1.00
2219 ENTERPRISE DR	PAGE 001 OF 821
FLORENCE, SC 29501	05/14/2007 12:42
DOD OPS M/S FSCE 440	KING COUNTY, WA

Assessor's Parcel or Account Number 2719100105
Abbreviated Legal Description: n/a

Lt 3-4 Blk 3 Gatewood Gardens V.25 P.15

[Include lot. [illegible] and plat or section, Township and range] Full legal description located on page 3

Trustee FIRST AMERICAN TITLE CO.

21/261

——(Space Above This Line For Recording Data)——

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 19, 20, and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated AUGUST 05, 2007 together with all Riders to this document.

(B) "Borrower" is BYRON L. BARTON AND, JEAN BARTON, HUSBAND AND WIFE

Borrower is the trustor under this Security Instrument.

(C) "Lender" is WASHINGTON MUTUAL BANK, PA

WASHINGTON-Single Family-[Illegible] UNIFORM INSTRUMENT Form 3863 IRI

-6(WA) (0612
page 1 of 15 Initials BLB
VMP MORTGAGE FORMS – (UCC) [illegible]

JMB

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RECAPTURE

FDIC as Receiver of
Washington Manual Bank
1601 Bryan Street
Dallas, TX 75201
Attention: George Fritz

Under federal law, with certain limited exceptions, failure to file such claims by the Bar Date will result in disallowance by the Receiver, the disallowance will be final, and further rights or remedies with regard to the claims will be barred. 12 U.S.C. Section 1821(d)(5)(C), (d)(6).

TO THE DEPOSITORS OF THE INSTITUTION

The Federal Deposit Insurance Corporation, in its corporate capacity, which insures your deposits (the "FDIC"), arranged for the transfer of the deposit(s) at the Failed Institution to another insured depository institution, JPMORGAN CHASE RANK NATIONAL ASSOCIATION, Columbus, OH, 43240 ("the New Institution"). This arrangement should minimize the inconvenience that closing of the Failed Institution causes you. You may leave your deposits in the New Institution, but you must take action to claim ownership of your deposits.

Federal law 12 U.S.C. Section 1822(e), requires you to claim ownership of ("claim") your deposits at the New Institution within eighteen (13) months from the Closing Date. If you do not claim your deposits at the New Institution by March 25, 2010, the funds in your account(s) will be transferred back to the FDIC, and you

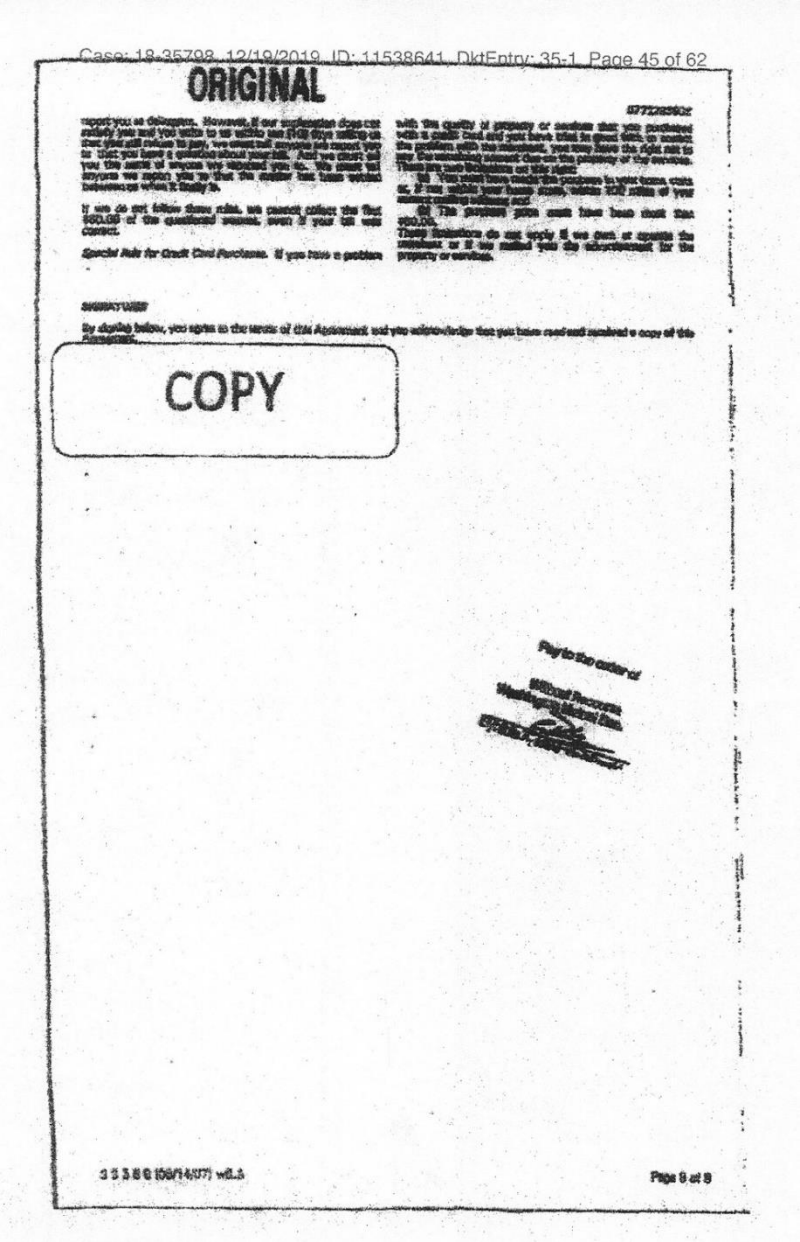
will no longer have access to your deposit(s) at the New Institution. However, as described in more detail below, you may still be able to obtain these funds from your state government or the Receiver.

You may claim your deposits at the New Institution by taking any of the following actions within 18 months from the Closing Date. If you have more than one account, your action in claiming your deposit in one account will automatically claim your deposit in all of your accounts.

1. Making a deposit to or withdrawal from your account(s). This includes writing a check on any account, or having an automated direct deposit credited to or an automated withdrawal debited from any account;

2. Executing a new signature card on your account(s), enter into a new deposit agreement with the New Institution, changing the ownership on your account(s), or renegotiating the terms of your certificate of deposit account;

3. Providing the New Institution with a completed change of address form; or RLS7211



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RECAPTURE

Chase (OH4-7382)
3415 Viston Drive
Columbus, OH 4321904009

CHASE

ORIGINAL

September 30, 2011

[Illegible]
Jean Barton
6548 41st Ave SW
Seattle, WA 98136-1814

Re: Account Number: *******077
Jean Barton

Dear Jean Barton:

We are writing in response to the inquiry Chase received about the Power of Attorney for this account. We have updated our records to show First American no longer has power of Attorney for this account. We appreciate your business. If you have questions, please call us at the telephone number below.

Sincerely,
Chase
(800) 848-9136
(800) 582-0541 TDD / Text Telephone
www.chase.com

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FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DAEWOO ELECTRONICS AMERICA INC., a Florida corporation,
Plaintiff/Appellant,

v.

OPTA CORPORATION, a Delaware corporation registered to do business in California; T.C.L. INDUSTRIES HOLDINGS (H.K.) LIMITED, a Hong Kong corporation; TCL MULITMEDIA TECHNOLOGY HOLDING LIMITED, a Cayman Islands Company; TCL CORPORATION, a Shenzhen, China, corporation,
Defendants-Appellees.

No. 14-17498

D.C. No.
3:13-cv-01247-VC

OPINION

Appeal from the United States District Court
for the Northern District of California
Vince G. Chhabria, District Judge, Presiding

Argued and Submitted December 16, 2016
San Francisco, California

Filed November 27, 2017

* * *

Before: Jay S. Bybee and N. Randy Smith, Circuit Judges, and Leslie E. Kobayashi,* District Judge.

Opinion by Judge N.B.. Smith;
Dissent by Judge Bybee

SUMMARY**

Claim Preclusion

The panel reversed the district court' s dismissal of almost all of Daewoo Electronics America Inc.'s claims as barred by a prior judgment of the United States District Court for the District of New Jersey; and remanded for further proceedings.

Daewoo brought this diversity action to recover unpaid debt from four entities affiliated with GoVideo for GoVideo's purchase of DVD players from Daewoo. Daewoo previously filed suit in New Jersey federal court seeking to enforce a guaranty agreement, arid the court ruled against Daewoo.

The panel held that the summary judgment ruling of the federal district court in New Jersey on Daewoo's prior breach of contract claim (based on the guaranty agreement) against Opta Corporation and TCL

---

* The Honorable Leslie E. Kobayashi, United States District Judge for the District of Hawaii, sitting by designation

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

Industries Holdings Limited did not preclude Daewoo from bringing the present alter ego and

* * *

From: **Byron Barton** byronandjean@comcast.net

Subject: **Proof of Delisting**

Date: **Nov 20, 2016, 8:20:10 PM**

To: **Byron Barton** byronandjean@comcast.net

Property History for 6548 41st Ave SW

Date	Event	Price	Appreciation	Source
Aug 9, 2016	Delisted	—	—	NWMLS #1002783
Jul 22, 2016	Listed (Active)	▪	—	NWMLS #1002783
Apr 28, 2014	Sold (Public Records) This home was sold at a auction. foreclosure	$646,000	—	Public Records

I Al, cred tors having claims against the Failed institution mJst subm.t the'r claims in wr ling, togetner Iw,lh oroof of the cla,ms, to the Receiver bv December 30. 2008 (tne "Bar Dare'l. at tne following

FD1C as Receiver of Washington Mutual Bank
1601 Bryan Street, Dallas, TX 75201
Attention: George Fritz

Under federal law, with certain limited exceptions, failure to file such claims by the Bar
Date will result in disallowance by the Receiver, the disallowance will be final,
and further
ri hts or remedies with regard to the claims will be barred. 12 U.S.C. Section 1821(d)(S)(C),
(dh.

TO THE DEPOSITORS OF THE INSTITUTION

The Federal Deposit Insurance Corporation, in its corporate capacity, which insures your deposits
(the "FDIC), arranged for the transfer of the deposit(s) at the Failed lnstitution
to another insured
depository institution. JPMORGAN CHASE BANK NATIONAL ASSOCIATION, Columbus. OH, 43i40 ("t6e New Insr~!~rion'). Th's arrangement sno-ld m'nlm;ze the inconvenience Ire closing of I

on cases VOJ. You mav leave vour de~osits in the New Institution, but vou . . must take action to claim ownership oiyour diposits.'

Federal law 12 U.S.C. Section 1822(e), requires you to claim ownership of ("claim") your deposits at the New Institution within eighteen (18) months from the Closing Date, If you do not claim your deposits at the New lnstitution by March 25,2010, the funds in your account(s) will be transferred back to the FDIC, and you will no longer have access to your deposit(s) at the New Institution.
However, as described in more detail below, you may still be able to obtain these funds from your state government or the Receiver.

You may clam your deposits at the New lnstitution by taking any of the following actions within 18 months from the Closing Date. If you have more than one account, your action in claiming your deposit in one account will automatically claim your deposit in all of your accounts.

from yoJr acco~nt(s). Tn~s incl~des wrlt.ng a

direct oeoosit creoited to or an automatea

1. Making a deposit to or wlthorawal check on
any accoLnt, cr hav na an a~tomated w'thdrawal
debited from any accdunt; i

BANKRUPTCY, DIVORCE, AND THE *ROOKER-FELDMAN* DOCTRINE: A POTENTIAL MARRIAGE OF CONVENIENCE

Peter C. Alexander*

I. INTRODUCTION

The *Rooker-Feldman* Doctrine is a relatively obscure principle. It is based on two cases: *Rooker v. Fidelity Trust Co.*[1] and *District of Columbia Court of Appeals v. Feldman*.[2] The doctrine stands for the principle that lower federal courts, including bankruptcy courts, lack subject-matter jurisdiction to review determinations made by state courts in judicial proceedings. Federal review of state court decisions lies only with the United States Supreme Court. Moreover, a lower federal court may not entertain a claim that is

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[1] 263 U.S. 413 (1923).

[2] 460 U.S. 462 (1983).

"inextricably intertwined" with a claim addressed in the state court.[3] Sometimes confused with "claim preclusion" and "issue preclusion," *Rooker-Feldman* has been applied in eases where the more familiar preclusion doctrines have not.

When an individual files bankruptcy and seeks to discharge all of his or her debts, creditors occasionally challenge the debtor's ability to have any debts forgiveni.[4] The denial of a discharge is reserved for debtors whose activities are inconsistent with the purposes of bankruptcy. More often, creditors will challenge a debtor's ability to discharge a particular debt, rather than all of his or her dcbts.[5] Efforts to stop the discharge of marital debts fall within the second category of challenges. To block the discharge of a debt in bankruptcy requires the creditor to file adversary complaints[6] with the bankruptcy court.[7] Adversaries are akin to civil lawsuits and require all of the procedural safeguards that suits filed in the federal

* * *

[3] *Id.* at 483.

[4] *See* 11 U.S.C. § 727(c)(1) (2010).

[5] *See* 11 U.S.C. § 523(a) (2010).

[6] Hereinafter "adversaries."

[7] *See* FED. R. BANKR. P. 7001.

Supreme Court No. 93777-0-
Appeal Cause No. 73336-2-1

SUPREME COURT OF THE
STATE OF WASHINGTON

Byron Barton and Jean Barton

Appellants

v.

JP MORGAN CHASE BANK, N.A.,
FIRST AMERICAN TITLE, QUALITY
LOAN SERVICE CORPORATION OF
WASHINGTON, AND TRIANGLE PROPERTY
DEVELOPMENT, INC., A Washington Corporation

Respondents

Appeal from the Court of Appeals Division 1
The Honorable Becker, J.

RAP RULE 9.6 Exhibits
(Filed Nov. 23, 2016)

Byron and Jean Barton
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byronandjean@comcast.net
Pro Se

Chapter 22: The seller's agent and the prospective buyer

[Picture Omitted]

Learning Objectives

After reading this chapter, you will be able to:

- distinguish an agent's specific agency duty owed to their client from the limited general duty they owe to others in a transaction;
- conduct a due diligence investigation to observe property conditions adversely affecting value for disclosure to prospective buyers;
- protect your seller by ensuring all readily known material facts on the listed property are disclosed to prospective buyers before the seller enters into a purchase agreement; and
- understand the need to qualify your representations in a transaction when they are opinions and not based on the results of an investigation into the facts.

Key Terms

fiduciary duty

general duty

marketing package

material fact

multiple listing service (MLS)

preliminary title report (prelim)

title conditions

Transfer Disclosure Statement (TDS)

General duty to voluntarily disclose

A seller's broker and their agents have a special **fiduciary agency duty**, owed solely to a seller who has employed the broker, to diligently market the listed property for sale. The objective of this employment is to locate a prospective buyer who is ready, willing and able to acquire the property on the listed terms.

On locating a prospective buyer, either directly or through a buyer's agent, the seller's agent owes the prospective buyer, and thus also the buyer's

* * *

Courses: Contracts; Trusts, Wills, and Estates; Introduction to Law; Federal Arbitration Act Seminar.

Service: Appointments Committee (Chair, 2015-16, 2016-17; Member 2013-14); Admissions Committee (2014-15; 2012-13); Educational Policy Committee (2012-13); Campus Judicial Board (2012-15); Undergraduate Awards and Scholarships (2015-2018).

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CASEBOOKS

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- Winner, Mangano Dispute Resolution Advancement Award (2017).

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Author, Brief of California Law Professors in Support of Respondent, *DIRECTV v. Imburgia*, No. 14-462 (U.S. July 24, 2015), 2015 WL 4698387.

Author, Brief of Law Professors on Rehearing *En Banc* in Support of Plaintiffs-Appellants, Kilgore v. KeyBank Nat'l Assoc., No. 09-16703 (9th Cir. Oct 12, 2012), 2012 WL 5196969 (*en banc*) (with Hiro N. Aragaki).

Author, Brief of Contracts Professors in Support of Respondent, *AT&T Mobility LLC v. Concepcion*, No. 09-893 (U.S. Oct. 6, 2010), 2010 WL 3973891.

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UCLA School of Law, J.D., 2004
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Moderator, Insurance Law Panel, Sixth Annual Contracts Conference, UNLV William Boyd Law School, February 2010.

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Academic Fellow, American College of Trust and Estate Counsel.

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Blogging: Consumer Law and Policy Blog, June 2015; SCOTUSblog Arbitration Symposium, September 2011; Contracts Profs Blog, April 2010 and November 2012; Prawfsblawg, November 2010.

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CONGRESSIONAL OVERSIGHT PANEL

NOVEMBER OVERSIGHT REPORT*

EXAMINING THE CONSEQUENCES OF MORTGAGE IRREGULARITIES FOR FINANCIAL STABILITY AND FORECLOSURE MITIGATION

[LOGO]

NOVEMBER 16, 2010.—Ordered to be printed

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CONTENTS

Page

Executive Summary 1

Section One:

A. Overview 4

B. Background 5

C. Timeline 6

D. Legal Consequences of Document Irregularities 10

1. Potential Flaws in the Recording and Transfer of Mortgages and Violations of Pooling and Servicing Agreements..... 12

2. Possible Legal Consequences of the Document Irregularities to Various Parties 19

3. Additional Considerations..... 27

E. Court Cases and Litigation 28

1. Fraud Claims..... 29

2. Existing and Pending Claims under Various Fraud Theories..... 33

3. Other Potential Claims 35

4. Other State Legal Steps 36

5. Other Possible Implications: Potential "Front-end" Fraud and Documentation Irregularities..... 38

F. Assessing the Potential Impact on Bank Balance Sheets 42

1. Introduction..... 42

2. Foreclosure Irregularities: Estimating the Coat to Banks..... 48

3. Securitization Issues and Mortgage Put-backs..... 52

G. Effect of Irregularities and Foreclosure Freezes on Housing Market 59

1. Foreclosure Freezes and their Effect on Housing 59
2. Foreclosure Irregularities and the *Crisis* of Confidence..... 64
H. Impact on RAMP 66
I. Conclusion..... 68
Section Two: Correspondence with Treasury..... 71
Section Three: TARP Updates Since Last Report.... 72
Section Four: Oversight Activities..... 96
Section Five: About the Congressional Oversight Panel 97
Appendices:
APPENDIX I: LETTER FROM CHAIRMAN TED KAUFMAN TO SPECIAL MASTER PATRICIA GEOGHEGAN, RE: FOLLOW UP TO EXECUTIVE COMPENSATION HEARING, DATED NOVEMBER 1, 2010 ... 98

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