

6-7-2017

Douglas v. Zions Bank, N.A. Respondent's Brief 1 Dckt. 44645

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IN THE SUPREME COURT OF THE STATE OF IDAHO

DAVID DOUGLAS, TERRY KERR

Plaintiffs-Appellants,

vs.

ZIONS BANK N.A. and NATIONSTAR
MORTGAGE LLC, and PRINCE and
YEATES P.C.,

Defendants-Respondents.

**BRIEF OF DEFENDANT-
RESPONDENT (Prince, Yeates &
Geldzahler)**

Supreme Court Docket No. 44645-2016
Bonneville Case No.: CV-2016-2713

**APPEAL FROM THE DISTRICT COURT OF THE SEVENTH
JUDICIAL DISTRICT IN AND FOR THE COUNTY OF BONNEVILLE
JOEL TINGEY, DISTRICT COURT JUDGE**

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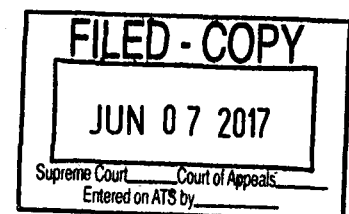
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Defendant-Respondent Prince, Yeates & Geldzahler, P.C. (“Prince Yeates”), improperly named Prince and Yeates P.C. in the underlying proceedings by Plaintiffs-Appellants David Douglas and Terry Kerr (collectively the “Appellants”) hereby respectfully submits the following response to Appellants’ opening brief, dated May 6, 2017.

Appellants’ appeal and brief, like the Complaint filed in the underlying District Court case, consists primarily of unsupported conclusions, assumptions, and incoherent allegations – making it difficult to ascertain who allegedly committed the wrongs complained of. Most importantly, as it pertains to Prince Yeates, there are no allegations whatsoever of any specific wrongdoing by Prince Yeates. As a result, there is no way for Prince Yeates to determine if it is a proper party to this appeal and which, if any, claims are made against it.

Prince Yeates represented Zions Bank (one of the other Respondents) after Zions Bank’s foreclosure of property formerly owned by Appellants in Idaho Falls, but has no contract with either of the Appellants. Indeed, Appellants do not allege or argue that Prince Yeates owed them any duty or that Prince Yeates breached any obligation owed to them. As a result, none of Appellants’ claims have any basis in law or fact.

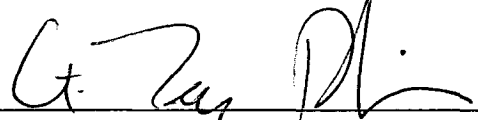
Furthermore, Appellants failed to meet their obligation under Rule 8 of the Idaho Rules of Civil Procedure to specify which defendants engaged in the complained-of acts and, instead, simply lumped all of the defendants together in the Complaint. *See Flores v. EMC Mortgage Company*, 997 F. Supp. 2d 1088, 1103 (E.D. Cal. 2014) (dismissing wrongful foreclosure suit that “failed to distinguish adequately claims and alleged wrongs

among defendants and others”). Because Appellants failed to state which defendants are responsible for which conduct in the Complaint, the Complaint does not give proper notice of the claims asserted against Prince Yeates and was properly dismissed.

For these reasons, Prince Yeates respectfully requests that the Court deny Appellants’ Appeal and uphold Judge Tingey’s ruling.

DATED this 6th day of June, 2017.

PRINCE, YEATES & GELDZAHLER

By 

G. Troy Parkinson
Attorneys for Defendant-Respondent
Prince, Yeates & Geldzahler, P.C.

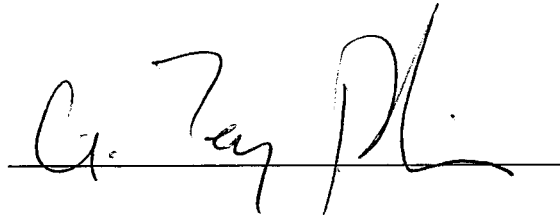
CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June, 2016 I caused to be served two copies of the foregoing **BRIEF OF DEFENDANT-RESPONDENT (Prince, Yeates & Geldzahler)** by U.S. Mail, postage prepaid, to the following:

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A handwritten signature in black ink, appearing to read "Ray Quinney", is written over a horizontal line. The signature is cursive and somewhat stylized.