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Supreme Court No. 45721

IN THE SUPREME COURT OF THE STATE OF IDAHO

JERRY LOSEE AND JOCAROL
LOSEE,

Plaintiffs/Appellants/

vs.

DEUTSCHE BANK NATIONAL TRUST
COMPANY, et al

Defendants/Respondents/

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Docket No.

Bannock County Docket No. 2015-2863

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IDAHO SUPREME COURT
COURT OF APPEALS

REPLY BRIEF OF APPELLANTS

APPEAL FROM THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
FOR BANNOCK COUNTY HONORABLE STEPHEN S. DUNN, DISTRICT
JUDGE, PRESIDING

PLAINTIFFS/APPELLANTS *Pro Se*

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ATTORNEYS FOR
RESPONDENTS/DEFENDANTS

REPLY TO APPELLEE'S RESPONSE BRIEF

The Appellants restate the arguments contained in their Brief, and offer this Reply to rebut the arguments set forth in the Response Brief filed by the Appellees.

ARGUMENT

The Esquivel Affidavit referenced in the record does not contain the same information as the Chain of Title Analysis, as argued by the Appellees in their Response Brief. The Affidavit contains only a portion and incomplete representation of the information contained in the Chain of Title Analysis. As such, the District Court did not include the contentions made by Mr. Esquivel in its analysis. The District Court specifically excluded the Chain of Title Analysis. The argument of the Appellees is nonsensical. The Chain of Title Analysis contains a factual history of the transactions involved in this case, and an analysis that directly supports the position of the Plaintiffs/Appellants; the Analysis points out material facts and inferences fairly drawn from that facts, as well as legal context, which point to disputes concerning material issues of fact and legal issues that are not reflected in the Affidavit.

There is a genuine issue of material fact as to whether the Defendant is a holder in due course of the note that is at issue in the Appellants' cause of action. That question lies at the heart of the Plaintiffs/Appellants' case. If the Defendant were not properly in possession of the rights granted in the transaction between the parties, then they did not have the right to foreclose or otherwise enforce the provisions of the mortgage documents. The Esquivel Affidavit, along with the Chain of Title Analysis, the two of which are functionally inseparable, constitute a proffer of

evidence in the form of testimony of an expert witness who has testified as such on numerous occasions (Joseph Esquivel, Jr.) that would likely be admissible at trial.

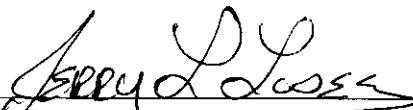
The Affidavit, on its face, purports to be made in support of the Chain of Title Analysis, referencing it. The Affidavit itself was, necessarily, a statement other than one made by a witness testifying at trial. The District Court, in stating that the Chain of Title Analysis was hearsay, applied a standard that would exclude all affidavits from consideration. The standard applied was incorrect, and it was error.

CONCLUSION

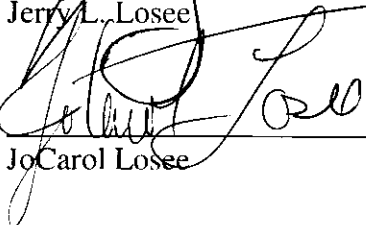
The Chain of Title Analysis contains the Affidavit, and the Affidavit reference the Chain of Title Analysis. The two documents are clearly two parts of the same proffer of evidence, and the District Court used its “hearsay” analysis to exclude the Chain of Title Analysis, inappropriately splitting them in two.

The Appellees do not address how the District Court also erred in dismissing the Complaint in its entirety, when said court had not adjudicated two of the causes of action.

RESPECTFULLY SUBMITTED,




Jerry L. Losee



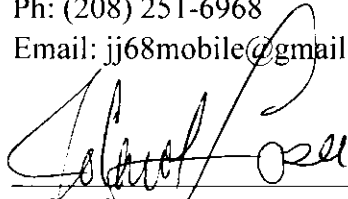
Jo Carol Losee

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY, that two true copies of this pleading have been sent by US Mail to the following parties: WRIGHT FINLAY & ZAK., Ace Van Patten, 7785 W. Sahara Ave., Suite 200 Las Vegas, NV 89117; on this 11 day of July, 2018.



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