

CLERK OF THE COURT

1 **NOAS**
2 JACOB L. HAFTER, ESQ.
3 Nevada State Bar No. 9303
4 **HAFTERLAW**
5 6851 W. Charleston Blvd.
6 Las Vegas, Nevada 89117
7 Tel: (702) 405-6700
8 Fax: (702) 685-4184
9 jhafter@hafterlaw.com
10 *Counsel for Plaintiff*

Electronically Filed
Jul 14 2016 10:15 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 **AMY FACKLAM,**

11 Plaintiff,

12 vs.

Case No.: A-16-733762-C

Dept. No. VI

13 **HSBC BANK USA, National Association,**
14 **as TRUSTEE for DEUTCHE ALT-A**
15 **SECURITIES MORTGAGE LOAN**
16 **TRUST, MORTGAGE PASS-THROUGH**
17 **CERTIFICATES SERIES 2007-AR2;**
18 **DOES I through X; and ROE**
19 **CORPORATIONS I through X,**
20 inclusive,

21 Defendant.

NOTICE OF APPEAL

22 Notice is hereby given that Plaintiff AMY FACKLAM, by and through Jacob L. Hafter,
23 Esq., of **HAFTERLAW**, hereby appeals to the Supreme Court of Nevada, the following:

- 24 1) Order, in the above referenced matter issued by the Eighth Judicial District Court of
25 the State of Nevada on June 27, 2016;

26 Pursuant to Rule (3)(8)(1), the Case Appeal Statement is being filed concomitantly with
27 this Notice of Appeal.

28 ///

///

1 Dated this 11th day of July, 2016.

2
3 **HAFTERLAW**

4
5 By: 

6 Jacob L. Hafter, Esq.
7 Nevada Bar Number 9303
8 6851 West Charleston Blvd.
9 Las Vegas, Nevada 89117
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6851 W. Charleston Blvd.
Las Vegas, Nevada 89117
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(702) 685-4184 Facsimile

CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that I am an employee of **HAFTERLAW**, and that on this 11th day of July, 2016, I served a copy of the foregoing **NOTICE OF APPEAL** as follows:

☒ Electronic Service —By filing a true copy thereof with the district court's electronic filing system; and/or

Houser & Allison, APC

Name	Email		Select
Courtney Hershey	chershey@houser-law.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Jeffrey Allison	jallison@houser-law.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

/s/ Kelli Wightman
An employee of HAFTERLAW

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Las Vegas, Nevada 89117
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(702) 685-4184 Facsimile


CLERK OF THE COURT

ASTA
JACOB L. HAFTER, ESQ.
Nevada State Bar No. 9303
HAFTERLAW
6851 West Charleston Boulevard
Las Vegas, Nevada 89117
Tel: (702) 405-6700
Fax: (702) 685-4184
jhafter@hafterlaw.com
Counsel for Plaintiff

**EIGHTH JUDICIAL DISTRICT COURT
STATE OF NEVADA**

AMY FACKLAM,
Plaintiff,
vs.

Supreme Court of NV Case No:
Case No.: A-16-733762-C
Dept. No. VI

**HSBC BANK USA, National Association,
as TRUSTEE for DEUTSCHE ALT-A
SECURITIES MORTGAGE LOAN
TRUST, MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-AR2;
DOES I through X; and ROE
CORPORATIONS I through X, inclusive,**
Defendant.

CASE APPEAL STATEMENT

1. Name of appellant(s) filing this case appeal statement:

AMY FACKLAM, an individual;

2. Identify the judge issuing the decision, judgment, or order appealed from:

HONORABLE ELISSA F. CADISH



1 **3. Identify each appellant and the name and address of counsel for each**
2 **appellant:**

3
4 AMY FACKLAM, appellant.

5 *Counsel for Appellant is:*

6
7 Jacob L. Hafter, Esq.

8 **HAFTERLAW**

9 6851 West Charleston Blvd.

10 Las Vegas, Nevada 89117

11 Phone: 702-405-6700; Facsimile: 702-685-4184

12 jhafter@hafterlaw.com

13 **4. Identify each respondent and the name and address of appellate**
14 **counsel, if known, for each respondent (if the name of a respondent's**
15 **appellate counsel is unknown, indicate as much and provide the**
16 **name and address of that respondent's trial counsel):**

17 Respondent is HSBC BANK, USA, National Association, as

18 TRUSTEE for DEUTSCHE ALT-A SECURITIES MORTGAGE LOAN

19 TRUST, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2007-

20 AR2.

21 *Counsel for Respondent:*

22
23 Jeffrey S. Allison, Esq.

24 **HOUSER & ALLISON, APC**

25 3900 Paradise Road, Suite 101

26 Las Vegas, Nevada 89169

27 Telephone: (702) 410-7593

28 Fax: (702) 410-7594

jallison@houser-law.com

1
2 **5. Indicate whether any attorney identified above in response to**
3 **question 3 or 4 is not licensed to practice law in Nevada and, if so,**
4 **whether the district court granted that attorney permission to**
5 **appear under SCR 42 (attach a copy of any district court order**
6 **granting such permission):**

7 Not applicable. All parties identified above are licensed in Nevada.

8
9 **6. Indicate whether appellant was represented by appointed or**
10 **retained counsel in the district court:**

11
12 Jacob Hafter, Esq., of HAFTERLAW, was counsel for Appellant in the
13
14 district court.

15
16 **7. Indicate whether appellant is represented by appointed or retained**
17 **counsel on appeal:**

18
19 This office, HafterLaw, will represent Appellant for the appeal.
20
21

22 **8. Indicate whether appellant was granted leave to proceed in forma**
23 **pauperis, and the date of entry of the district court order granting**
24 **such leave:**

25
26 Not applicable / None was granted.
27
28

1 **9. Indicate the date the proceedings commenced in the district court**
2 **(e.g., date complaint, indictment, information, or petition was**
3 **filed):**

4 The Complaint was filed in the district court on March 21, 2016.
5

6
7 **10. Provide a brief description of the nature of the action and result in**
8 **the district court, including the type of judgment or order being**
9 **appealed and the relief granted by the district court:**

10 The complaint was filed on March 21, 2016, seeking both declaratory
11 relief and injunctive relief. Appellant initiated this action seeking a
12 declaration from the Court that any attempts by Respondent HSBC BANK
13 USA, N.A. to foreclose on her primary residence, a remedy available to it as
14 a result of Appellant's alleged breach of her mortgage, a written contract, are
15 now barred, as it has been over six years since Respondent first filed a notice
16 the breach, accelerating the entire amount due under the mortgage. To that
17 end, it is Appellant's position that the statute of limitations related to
18 Appellant's alleged breach of a written contract has run.
19
20
21
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23 As this case hinges on questions of law, specifically whether a
24 rescission filed with the county recorder in 2011, which expressly stated that
25 such rescission did not "waiv[e], cur[e], extend[] to, or affect[] any default,
26 either past, present or future, under such Deed of Trust, or as impair[] any
27
28

right or remedy thereunder,” rescinded any acceleration of the mortgage which occurred as a result of the 2009 notice of default, resetting the statute of limitations related to a breach of the mortgage. The district court ruled in favor of the bank on a motion for summary judgment, claiming that, regardless of the limiting language in the 2011 rescision, it rescinded the acceleration of the mortgage caused by the 2009 notice of breach, resetting the statute of limitations for pursuing a claim of breach of the mortgage.

On June 27, 2016, the district court entered an Order Denying Plaintiff’s Motion for Summary Judgment and Granting Defendant’s Counter-Motion to Dismiss the Complaint. The Notice of Entry of Order and Judgment was filed on July 6, 2016. See Exhibit “A”.

This appeal stems from that denial.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

Not applicable. Case has never been appealed.

///

///

///

6851 W. Charleston Boulevard
Las Vegas, Nevada 89117
(702) 405-6700 Telephone
(702) 685-4184 Facsimile

1 **12. Indicate whether this appeal involves child custody or visitation:**
2 No.

3
4 **13. If this is a civil case, indicate whether this appeal involves the**
5 **possibility of settlement:**

6
7 This is a case of first impression which involves real property which are
8 important to the people of this great State. While Appellant is willing to consider
9 settlement discussions, it is unclear how a settlement can be reached without the
10 Court's addressing the question of law presented.

11
12 Dated this 11th day of July, 2016.

13
14 **HAFTERLAW**

15
16 By: _____

Jacob L. Hafter, Esq.
Nevada Bar Number 9303
6851 West Charleston Blvd.
Las Vegas, Nevada 89117

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of HAFTERLAW, and that on this 11th day of July, 2016, I served a copy of the foregoing *CASE APPEAL STATEMENT* as follows:



Electronic Service through the Court's electronic filing system. And/or

Houser & Allison, APC

Name

Email

Select

Courtney Hershey

chershey@houser-law.com



Jeffrey Allison

jallison@houser-law.com



/s/ Kelli Wightman

An employee of HAFTERLAW

6851 W. Charleston Boulevard
Las Vegas, Nevada 89117
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(702) 685-4184 Facsimile

h
11/11/16

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-16-733762-C

Amy Facklam, Plaintiff(s)

vs.

HSBC Bank USA National Association, Defendant(s)

§
§
§
§
§

Location: **Department 6**
Judicial Officer: **Cadish, Elissa F.**
Filed on: **03/21/2016**
Cross-Reference Case Number: **A733762**

CASE INFORMATION

Statistical Closures

06/27/2016 Motion to Dismiss (By Defendant)

Case Type: **Other Title to Property**

Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-16-733762-C
Court	Department 6
Date Assigned	03/21/2016
Judicial Officer	Cadish, Elissa F.

PARTY INFORMATION

Plaintiff

Facklam, Amy

Lead Attorneys

Hafter, Jacob L., ESQ
Retained
702-405-6700(W)

Defendant

HSBC Bank USA National Association

Allison, Jeffrey S.
Retained
702-410-7593(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

03/21/2016



Complaint

Filed By: Plaintiff Facklam, Amy
Complaint

03/22/2016



Notice of Entry of Order

Filed By: Plaintiff Facklam, Amy
Notice of Entry of Order Shortening Time to Hear Motion for Temporary Restraining Order AND Preliminary Injunction

03/22/2016



Motion for Temporary Restraining Order

Filed By: Plaintiff Facklam, Amy
Motion for Temporary Restraining Order AND Preliminary Injunction on Order Shortening Time

03/22/2016



Order Shortening Time

Filed By: Plaintiff Facklam, Amy
Order Shortening Time to hear Motion for Temporary Restraining Order AND Preliminary Injunction

03/28/2016



Affidavit of Service

Filed By: Plaintiff Facklam, Amy
Affidavit of Service

04/04/2016



Initial Appearance Fee Disclosure




Filed By: Defendant HSBC Bank USA National Association

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-16-733762-C

Initial Appearance Fee Disclosure (NRS Chapter 19)

04/04/2016	 Opposition to Motion Filed By: Defendant HSBC Bank USA National Association <i>Opposition to Motion for Temporary Restraining Order and Preliminary Injunction on Shortened Time</i>
04/07/2016	 Affidavit of Service Filed By: Plaintiff Facklam, Amy <i>Affidavit of Service on Defendant HSBC Bank USA, National Association, as Trustee for Deutsche Alt-A Securities Mortgage Loan Trust, A Mortgage Pass-Through Certificates Series 2007-AR2</i>
04/08/2016	 Reply in Support Filed By: Plaintiff Facklam, Amy <i>Reply In Support of Motion for Temporary Restraining Order and Preliminary Injunction on Order Shortening Time</i>
04/12/2016	 Motion for Temporary Restraining Order (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Plaintiff, Amy Facklam's Motion for Temporary Restraining Order and Preliminary Injunction on Order Shortening Time</i>
04/13/2016	 Motion for Summary Judgment Filed By: Plaintiff Facklam, Amy <i>Motion for Summary Judgment</i>
04/18/2016	 Motion to Dismiss Filed By: Defendant HSBC Bank USA National Association <i>Opposition to Motion for Summary Judgment and Counter-Motion to Dismiss the Complaint</i>
04/20/2016	 Opposition to Motion to Dismiss Filed By: Plaintiff Facklam, Amy <i>Reply In Furtherance of Motion for Summary Judgment And Opposition to Defendant's Motion to Dismiss</i>
05/24/2016	 Order Filed By: Defendant HSBC Bank USA National Association <i>Order Denying Motion for Temporary Restraining Order and Preliminary Injunction Without Prejudice</i>
05/31/2016	 Reply to Opposition Filed by: Defendant HSBC Bank USA National Association <i>Reply to Opposition to Defendant's Motion to Dismiss the Complaint</i>
06/07/2016	Motion for Summary Judgment (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Plaintiff, Amy Facklam's Motion for Summary Judgment</i>
06/07/2016	Opposition and Countermotion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Defendants' Opposition to Motion for Summary Judgment and Counter-Motion to Dismiss the Complaint</i>
06/07/2016	 All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
06/27/2016	 Order Filed By: Defendant HSBC Bank USA National Association <i>Order Denying Plaintiff's Motion for Summary Judgment and Granting Defendant's Counter-</i>

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-16-733762-C

	<i>Motion to Dismiss the Complaint</i>	
06/27/2016	Order of Dismissal (Judicial Officer: Cadish, Elissa F.) Debtors: Amy Facklam (Plaintiff) Creditors: HSBC Bank USA National Association (Defendant) Judgment: 06/27/2016, Docketed: 07/05/2016	
07/06/2016	 Notice of Entry of Order Filed By: Defendant HSBC Bank USA National Association <i>Notice of Entry of Order Denying Plaintiff's Motion for Summary Judgment and Granting Defendant's Counter-Motion to Dismiss the Complaint</i>	
07/11/2016	 Notice of Appeal Filed By: Plaintiff Facklam, Amy <i>Notice of Appeal</i>	
07/11/2016	 Case Appeal Statement Filed By: Plaintiff Facklam, Amy <i>Case Appeal Statement</i>	

DATE	FINANCIAL INFORMATION	
	Defendant HSBC Bank USA National Association	
	Total Charges	223.00
	Total Payments and Credits	223.00
	Balance Due as of 7/12/2016	0.00
	Plaintiff Facklam, Amy	
	Total Charges	494.00
	Total Payments and Credits	494.00
	Balance Due as of 7/12/2016	0.00

DISTRICT COURT CIVIL COVER SHEET

A-16-733762-C

CLARK

County, Nevada

Case No.

VI

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Amy Facklam c/o HAFTERLAW 6851 West Charleston Blvd., Las Vegas, NV 89117 Tel: (702) 405-6700	Defendant(s) (name/address/phone): HSBC BANK USA, National Association, as TRUSTEE for Deutsche Alt-A Securities Mortgage Loan Trust, Mortgage Pass-Through Certificates Series 2007-AR2
Attorney (name/address/phone): Jacob L. Hafter, Esq. HAFTERLAW 6851 West Charleston Blvd., Las Vegas, NV 89117 Tel: (702) 405-6700	Attorney (name/address/phone): To Be Determined

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input checked="" type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

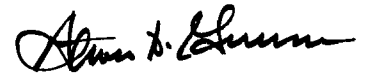
Business Court filings should be filed using the Business Court civil coversheet.

March 21, 2016

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

ORDER

Jeffrey S. Allison (NV Bar No. 8949)
Mark H. Hutchings (NV Bar No. 12783)

HOUSER & ALLISON, APC

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Las Vegas, Nevada 89169
Phone: (702) 410-7593/(949) 679-1111
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jallison@houser-law.com
mhutchings@houser-law.com

Attorneys for Defendant HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE
FOR DEUTSCHE ALT-A SECURITIES MORTGAGE LOAN TRUST, MORTGAGE PASS-
THROUGH CERTIFICATES SERIES 2007-AR2, by and through its servicer and attorney-in-
fact OCWEN LOAN SERVICING, LLC

**EIGHTH JUDICIAL DISTRICT COURT FOR
CLARK COUNTY, NEVADA**

AMY FACKLAM,

Plaintiff,

vs.

HSBC BANK USA, National Association, as
TRUSTEE for DEUTSCHE ALT-A
SECURITIES MORTGAGE LOAN TRUST,
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-AR2; DOES
1 through X; and ROE CORPORATIONS 1
through X, inclusive,

) Case No. A-16-733762-C

) Dept. No. VI

) **~~PROPOSED~~ ORDER DENYING**
) **PLAINTIFF'S MOTION FOR SUMMARY**
) **JUDGMENT AND GRANTING**
) **DEFENDANT'S COUNTER-MOTION TO**
) **DISMISS THE COMPLAINT**

This matter having come before the Court for hearing on June 7, 2016 AT 8:30 a.m. in

Department VI on the Motion for Summary Judgment brought by Plaintiff AMY FACKLAM

("Plaintiff") and the Counter-Motion to Dismiss Complaint by Defendant HSBC BANK USA,

NATIONAL ASSOCIATION, AS TRUSTEE FOR DEUTSCHE ALT-A SECURITIES

MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH CERTIFICATES SERIES

2007-AR2, by and through its servicer and attorney-in-fact OCWEN LOAN SERVICING, LLC

☐ Summary Judgment
☐ Stipulated Judgment
☐ Default Judgment
☐ Judgment of Arbitration

☐ Voluntary Dismissal
☐ Involuntary Dismissal
☐ Stipulated Dismissal
☒ Motion to Dismiss by Defendant

1 (“Defendant”), with appearances by Jacob L. Hafter, Esq. of HafterLaw as counsel for Plaintiff
2 and Jeffrey S. Allison, Esq. of Houser & Allison, APC as counsel for Defendant, having
3 reviewed the parties’ Motions, Oppositions and Replies thereto, and pleadings on file with the
4 Court, oral arguments, and with good cause therefore, the Court made findings and ruled as
5 follows:

6 **Plaintiff’s Motion for Summary Judgment**

7 **I. Findings of Fact**

- 8 1. The loan that is the subject of this matter evidenced by a note and recorded deed of
9 trust was obtained by Plaintiff on or about December 21, 2006;
- 10 2. An exhibited notice of default for the subject loan was recorded September 25, 2009;
- 11 3. Plaintiff entered into a trial loan modification with the prior servicer on or about
12 October 30, 2009;
- 13 4. An exhibited notice of sale was recorded July 20, 2011;
- 14 5. An exhibited rescission of the notice of default was recorded December 5, 2011;
- 15 6. An exhibited notice of default was recorded January 29, 2016 on behalf of Defendant;
- 16 7. Plaintiff filed the instant action against Defendant on or about March 21, 2016.

17 **II. Conclusions of law**

- 18 1. The December 5, 2011 rescission rescinded any acceleration by the 2009 notice of
19 default.
- 20 2. Even under Plaintiff’s statute of limitations arguments, any time which may have begun
21 to run with that notice no longer applied.

22 For these and additional reasons set forth in the record, Plaintiff’s Motion for Summary
23 Judgment is DENIED.
24

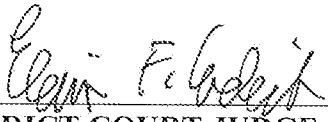
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2 **Defendant's Motion to Dismiss**

3 Defendant's Counter-Motion to Dismiss the Complaint is GRANTED. For the reasons
4 set forth above and in the record, Plaintiff's Complaint fails to state the claims.

5 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Plaintiff's Motion
6 for Summary Judgment is DENIED and Defendant's Counter-Motion to Dismiss the Complaint
7 is GRANTED. Accordingly, this action is dismissed and this shall constitute the final order and
8 judgment.

9 **IT IS SO ORDERED.**

10 Dated this 23 day of June, 2016.

11
12 
13 **DISTRICT COURT JUDGE** *xx*

14 Respectfully submitted by:

15 HOUSER & ALLISON, APC

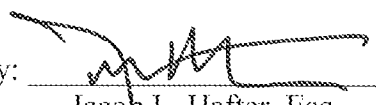
16 By: 
17 Jeffrey S. Allison, Esq.

18 Attorneys for HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR
19 DEUTSCHE ALT-A SECURITIES MORTGAGE LOAN TRUST, MORTGAGE PASS-
20 THROUGH CERTIFICATES SERIES 2007-AR2, by and through its servicer and attorney-in-
21 fact OCWEN LOAN SERVICING, LLC
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APPROVED AS TO FORM AND CONTENT:

HAFTERLAW

By: 
Jacob L. Hafter, Esq.

Attorneys for Plaintiff AMY FACKLAM

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CERTIFICATE OF SERVICE

I hereby certify that I am over the age of eighteen (18), that I am not a party to this action, and that on this date I caused to be served a true and correct copy of the following documents:

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND GRANTING DEFENDANT'S COUNTER-MOTION TO DISMISS THE COMPLAINT

By: X U.S. Mail
 X Electronic Service
 — Facsimile transmission
 — Overnight Mail
 — Hand and/or Personal Delivery

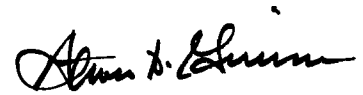
and addressed to the following:

Jacob L. Hafter, Esq.
HafterLaw
6851 W. Charleston Blvd.
Las Vegas, Nevada 89117
Tel: (702) 405-6700
Fax: (702) 685-4184
jhafter@hafterlaw.com

Attorney for Plaintiff AMY FACKLAM

Dated: June 27, 2016


An employee of HOUSER & ALLISON, APC



CLERK OF THE COURT

NEOJ

Jeffrey S. Allison (NV Bar No. 8949)
Mark H. Hutchings (NV Bar No. 12783)
HOUSER & ALLISON, APC
3900 Paradise Road, Suite 101
Las Vegas, Nevada 89169
Phone: (702) 410-7593/(949) 679-1111
Fax: (702) 410-7594/(949) 679-1112
jallison@houser-law.com
mhutchings@houser-law.com

Attorneys for Defendant HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE
FOR DEUTSCHE ALT-A SECURITIES MORTGAGE LOAN TRUST, MORTGAGE PASS-
THROUGH CERTIFICATES SERIES 2007-AR2, by and through its servicer and attorney-in-
fact OCWEN LOAN SERVICING, LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

AMY FACKLAM,

Plaintiff,

vs.

HSBC BANK USA, National Association, as
TRUSTEE for DEUTSCHE ALT-A
SECURITIES MORTGAGE LOAN TRUST,
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-AR2; DOES
1 through X; and ROE CORPORATIONS 1
through X, inclusive,

Defendants.

) Case No. A-16-733762-C

)
) Dept. No. VI

) **NOTICE OF ENTRY OF ORDER**
) **DENYING PLAINTIFF'S MOTION FOR**
) **SUMMARY JUDGMENT AND**
) **GRANTING DEFENDANT'S COUNTER-**
) **MOTION TO DISMISS THE**
) **COMPLAINT**

PLEASE TAKE NOTICE that on June 27, 2016, the court entered an Order Denying
Plaintiff's Motion for Summary Judgment and Granting Defendant's Counter-Motion to
Dismiss the Complaint.

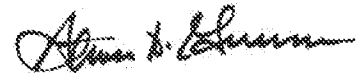
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A true and correct copy of which is attached hereto as Exhibit “A”.

Dated: July 6, 2016

HOUSER & ALLISON, APC

s/ Jeffrey S. Allison
Jeffrey S. Allison, Esq.
Attorneys for HSBC BANK USA,
NATIONAL ASSOCIATION, AS
TRUSTEE FOR DEUTSCHE ALT-A
SECURITIES MORTGAGE LOAN
TRUST, MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-AR2, by
and through its servicer and attorney-in-fact
OCWEN LOAN SERVICING, LLC



CLERK OF THE COURT

ORDER

Jeffrey S. Allison (NV Bar No. 8949)
Mark H. Hutchings (NV Bar No. 12783)
HOUSER & ALLISON, APC
3900 Paradise Road, Suite 101
Las Vegas, Nevada 89169
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Attorneys for Defendant HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE
FOR DEUTSCHE ALT-A SECURITIES MORTGAGE LOAN TRUST, MORTGAGE PASS-
THROUGH CERTIFICATES SERIES 2007-AR2, by and through its servicer and attorney-in-
fact OCWEN LOAN SERVICING, LLC

**EIGHTH JUDICIAL DISTRICT COURT FOR
CLARK COUNTY, NEVADA**

AMY FACKLAM,

Plaintiff,

vs.

HSBC BANK USA, National Association, as
TRUSTEE for DEUTSCHE ALT-A
SECURITIES MORTGAGE LOAN TRUST,
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-AR2; DOES
1 through X; and ROE CORPORATIONS I
through X, inclusive,

Case No. A-16-733762-C

Dept. No. VI

**[PROPOSED] ORDER DENYING
PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT AND GRANTING
DEFENDANT'S COUNTER-MOTION TO
DISMISS THE COMPLAINT**

This matter having come before the Court for hearing on June 7, 2016 AT 8:30 a.m. in

Department VI on the Motion for Summary Judgment brought by Plaintiff AMY FACKLAM

("Plaintiff") and the Counter-Motion to Dismiss Complaint by Defendant HSBC BANK USA,

NATIONAL ASSOCIATION, AS TRUSTEE FOR DEUTSCHE ALT-A SECURITIES

MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH CERTIFICATES SERIES

2007-AR2, by and through its servicer and attorney-in-fact OCWEN LOAN SERVICING, LLC

**EXHIBIT A
PAGE 1 OF 5**

<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Judgment of Arbitration
<input type="checkbox"/> Voluntary Dismissal
<input type="checkbox"/> Involuntary Dismissal
<input type="checkbox"/> Judgment of Arbitration
<input type="checkbox"/> Election to Dismiss by Defendant

1 ("Defendant"), with appearances by Jacob L. Hafter, Esq. of HafterLaw as counsel for Plaintiff
2 and Jeffrey S. Allison, Esq. of Houser & Allison, APC as counsel for Defendant, having
3 reviewed the parties' Motions, Oppositions and Replies thereto, and pleadings on file with the
4 Court, oral arguments, and with good cause therefore, the Court made findings and ruled as
5 follows:

6 **Plaintiff's Motion for Summary Judgment**

7 **I. Findings of Fact**

- 8 1. The loan that is the subject of this matter evidenced by a note and recorded deed of
9 trust was obtained by Plaintiff on or about December 21, 2006;
10 2. An exhibited notice of default for the subject loan was recorded September 25, 2009;
11 3. Plaintiff entered into a trial loan modification with the prior servicer on or about
12 October 30, 2009;
13 4. An exhibited notice of sale was recorded July 20, 2011;
14 5. An exhibited rescission of the notice of default was recorded December 5, 2011;
15 6. An exhibited notice of default was recorded January 29, 2016 on behalf of Defendant;
16 7. Plaintiff filed the instant action against Defendant on or about March 21, 2016.

17 **II. Conclusions of law**

- 18 1. The December 5, 2011 rescission rescinded any acceleration by the 2009 notice of
19 default.
20 2. Even under Plaintiff's statute of limitations arguments, any time which may have begun
21 to run with that notice no longer applied.

22 For these and additional reasons set forth in the record, Plaintiff's Motion for Summary
23 Judgment is DENIED.
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Defendant's Motion to Dismiss

Defendant's Counter-Motion to Dismiss the Complaint is GRANTED. For the reasons set forth above and in the record, Plaintiff's Complaint fails to state the claims.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion for Summary Judgment is DENIED and Defendant's Counter-Motion to Dismiss the Complaint is GRANTED. Accordingly, this action is dismissed and this shall constitute the final order and judgment.

IT IS SO ORDERED.

Dated this 23 day of June, 2016.


DISTRICT COURT JUDGE *ven*

Respectfully submitted by:
HOUSER & ALLISON, APC

By: 
Jeffrey S. Allison, Esq.

Attorneys for HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR DEUTSCHE ALT-A SECURITIES MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2007-AR2, by and through its servicer and attorney-in-fact OCWEN LOAN SERVICING, LLC

1 APPROVED AS TO FORM AND CONTENT:

2
3 HAFTERLAW

4 By: 
5 Jacob L. Hafter, Esq.

6 Attorneys for Plaintiff AMY FACKLAM
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CERTIFICATE OF SERVICE

I hereby certify that I am over the age of eighteen (18), that I am not a party to this action, and that on this date I caused to be served a true and correct copy of the following documents:

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND GRANTING DEFENDANT'S COUNTER-MOTION TO DISMISS THE COMPLAINT

By: ☒ U.S. Mail
☒ Electronic Service
☐ Facsimile transmission
☐ Overnight Mail
☐ Hand and/or Personal Delivery

and addressed to the following:

Jacob L. Hafter, Esq.
HafterLaw
6851 W. Charleston Blvd.
Las Vegas, Nevada 89117
Tel: (702) 405-6700
Fax: (702) 685-4184
jhafter@hafterlaw.com

Attorney for Plaintiff AMY FACKLAM

Dated: June 27, 2016


An employee of HOUSER & ALLISON, APC

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am over the age of eighteen (18), that I am not a party to this action,
3 and that on this date I caused to be served a true and correct copy of the following documents:

4 **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY
5 JUDGMENT AND GRANTING DEFENDANT'S COUNTER-MOTION TO DISMISS
6 THE COMPLAINT**

7 By: X U.S. Mail
8 X Electronic Service
9 — Facsimile transmission
10 — Overnight Mail
11 — Hand and/or Personal Delivery

12 and addressed to the following:

13 Jacob L. Hafter, Esq.
14 HafterLaw
15 6851 W. Charleston Blvd.
16 Las Vegas, Nevada 89117
17 Tel: (702) 405-6700
18 Fax: (702) 685-4184
19 jhafter@hafterlaw.com

20 Attorney for Plaintiff AMY FACKLAM

21 Dated: July 6, 2016

22 
23 An employee of HOUSER & ALLISON, APC
24

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

April 12, 2016

A-16-733762-C	Amy Facklam, Plaintiff(s)
	vs.
	HSBC Bank USA National Association, Defendant(s)

April 12, 2016	8:30 AM	Motion for Temporary Restraining Order
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HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:	Hafter, Jacob L., ESQ	Attorney
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JOURNAL ENTRIES

- Present via Court Call on behalf of the Defendants, Jeffrey Allison Esq. Court inquired as to why there is a need for the Temporary Restraining Order if no sale is scheduled, and the defendant is saying they are not proceeding with the sale. Argument in support of TRO by Mr. Hafter. Mr. Allison advised a notice of sale would not happen for a couple of months; foreclosure has been put on hold based upon the actions filed by Mr. Hafter; will not proceed with any sale, no sale is scheduled, and there is no irreparable injury. Court inquired if counsel will stipulate to what has been represented. Mr. Allison advised if the application is withdrawn without prejudice, they can refile the application and he will be happy to stipulate to it. Colloquy. Court noted the defense is saying the foreclosure sale will not go forward at this time. Mr. Allison reiterated the sale that has not happened, will not happen at this point. Upon the inquiry of the Court, Mr. Allison stated once there is notice of sale, it would be at the least 20 days thereafter; if that happens, he will give the Plaintiff 2 weeks notice before his client lifts the flag to proceed; there will not be a notice of sale unless that flag is lifted, and once lifted, 2-3 weeks notice will be given if his client decides to proceed. Mr. Hafter argued it's not fair for his client to have to wait around for them to proceed; they have no standing in the foreclosure. Court stated findings and ORDERED, Plaintiff Amy Facklam's Motion for Temporary Restraining Order and Preliminary Injunction on Order Shortening Time DENIED WITHOUT PREJUDICE; Defendant will give at least 3 weeks, or 21 days notice to Plaintiff's counsel before

proceeding to record any notice of sale to allow Plaintiff's counsel to act to renounce these proceedings should HSBC choose to proceed with the foreclosure sale; Mr. Allison to prepare the proposed order inclusive of the representation the Defendant is willing to provide notice, and due to that, the Court finds there is no irreparable injury for injunctive relief.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

June 07, 2016

A-16-733762-C

Amy Facklam, Plaintiff(s)

VS.

HSBC Bank USA National Association, Defendant(s)

June 07, 2016

8:30 AM

All Pending Motions

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keri Cromer

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:

Allison, Jeffrey S.

Attorney

Hafter, Jacob L., ESQ

Attorney

JOURNAL ENTRIES

- PLAINTIFF AMY FACKLAM'S MOTION FOR SUMMARY JUDGMENT...DEFENDANT'S
OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND COUNTER-MOTION TO DISMISS
THE COMPLAINT

Arguments by counsel regarding the merits of the motion, with focus on the statute of limitation, acceleration, and rescission. Mr. Hafter requested the statute of limitation prevent any foreclosure. Court stated its findings and ORDERED, Motion for Summary Judgment DENIED; Counter-Motion to Dismiss GRANTED. Mr. Allison to prepare the proposed order; Mr. Hafter to review as to form and content before submission for signature. Mr. Hafter advised he would not be in town to sign the order. Court directed Mr. Allison to submit the order electronically to Mr. Hafter, with Mr. Allison's original signature.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

JACOB L. HAFTER, ESQ
6851 W. CHARLESTON BLVD.
LAS VEGAS, NV 89117

DATE: July 12, 2016
CASE: A-16-733762-C

RE CASE: AMY FACKLAM vs. HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE
FOR DEUTSCHE ALT-A SECURITIES MORTGAGE LOAN TRUST, MORTGAGE PASS-
THROUGH CERTIFICATES SERIES 2007-AR2

NOTICE OF APPEAL FILED: July 11, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND GRANTING DEFENDANT'S COUNTER-MOTION TO DISMISS THE COMPLAINT; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND GRANTING DEFENDANT'S COUNTER-MOTION TO DISMISS THE COMPLAINT; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

AMY FACKLAM,

Plaintiff(s),

vs.

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR
DEUTCHE ALT-A SECURITIES MORTGAGE
LOAN TRUST, MORTGAGE PASS-
THROUGH CERTIFICATES SERIES 2007-
AR2,

Defendant(s),

Case No: A-16-733762-C

Dept No: VI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 12 day of July 2016.

Steven D. Grierson, Clerk of the Court

Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk