

CASE NO.: 82379

**IN THE SUPREME COURT OF THE STATE OF NEVADA  
FOR THE NINTH CIRCUIT**

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LEO KRAMER and AUDREY KRAMER, PRO SE

Plaintiffs-Appellants

v.

National Default Servicing Corporation; et al.,

Defendants-Appellees

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**FILED**

NOV 02 2021

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *Elizabeth A. Brown*  
DEPUTY CLERK

ON APPEAL FROM THE JUDGMENT OF THE  
THIRD JUDICIAL DISTRICT COURT OF LYON COUNTY

HON. John P. Schlegelmilch, Judge Presiding

Case No. 18-CV-00663

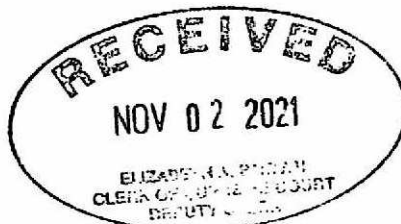
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**REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF APPELLANTS' OPENING & REPLY BRIEFS**

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October 29, 2021

Leo Kramer and Audrey Kramer  
Plaintiffs-Appellants, in Pro se  
2364 Redwood Road  
Hercules, CA 94547



**MOTION TO TAKE JUDICIAL NOTICE or PETITION FOR JUDICIAL  
REVIEW**

**COMES NOW** the Petitioner/Appellant, Audrey Kramer, appearing in pro per in the above-entitled action, and hereby petitions this Court for judicial review of fact pursuant to Nev. R. Evid. 201, of the Decision and Order of the dated, a copy of which is attached hereto as:

**RJN-1.**

**RJN-2**

**RJN-3**

**I  
INTRODUCTION**

Under Nevada Rule NRS 47.130 Matters of fact:

1. The facts subject to judicial notice are facts in issue or facts from which they may be inferred.
2. A judicially noticed fact must be:
  - (a) Generally known within the territorial jurisdiction of the trial court; or
  - (b) Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute.

Evidence 201, the court may take judicial notice of “fact that is not subject to reasonable dispute because it can be accurately and readily be determined from sources whose accuracy cannot reasonably be questioned.” Nev. R. Evid. 201.

Justice cries out for the need for judicial notice in appealing the substantial and prejudicial error of the lower court dismissing Plaintiffs-Appellants case when the record demonstrates that Defendant-Appellee lacked standing to commence the non-judicial foreclosure of Appellant’s real property.

As such, Plaintiffs-Appellants, hereby, respectfully request that The Supreme Court Of The State Of Nevada take judicial notice of the following documents and things:

## **RJN-1**

Request For Judicial Notice of **Certified Copy** of Plaintiff/Appellant, Leo Kramer’s “**Summary Of Schedules**” submitted on 4/22/2010, in Chapter 11 bankruptcy, **Case 10-43951** in the United States Bankruptcy Court Northern District of California.

Appellee, National Default Servicing Corporation, stepped outside the four corners of Appellants’ brief and falsely asserts in their Answering Brief the following:

*Appellant, Leo Kramer’s bankruptcy filings acknowledge Chase’s status as noteholder and beneficiary*

*On April 8, 2010, Leo Kramer filed a Chapter 11 bankruptcy petition in Case 10-43951, in the United States Bankruptcy Court, Northern District of California and included, in his schedules, acknowledgment that (i) Chase held a security interest in the Property; and (ii) the amount of Chase’s claim was \$175,274.00 (without deducting the value of the collateral). (ROA Vol.*

*IX, p. 3925). Leo Kramer then received a discharge on or about June 16, 2011. (ROA Vol. IX, p. 3963).*

Appellants refute and maintain NDSC's assertions to the court are brazenly false and misleading. And as such Appellants ask the court to take Judicial Notice in support of Appellant, Leo Kramer's "**Summary Of Schedules**" submitted in Chapter 11 bankruptcy, **Case 10-43951** in the United States Bankruptcy Court Northern District of California. Please refer to Pg 13 of 31, where it list Under **SCHEDULE F – CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS** the following:

**Account #:** 9272

**Creditor:** Washington Mutual Mortgage/Chase,

**Date Claim was incurred...:** Open 4/28/08 Last Active 9/9/09

**Amount of Claim:** Unknown.

This document contains facts about Appellant, Leo Kramer which offer proof and refute the false assertions contained within NDSC's Answering Brief.

Moreover, JPMorgan Chase Bank **did not submit a Proof of Claim** within bankruptcy **Case 10-43951**, there is no entry of Proof Of Claim noted in the Court Docket. There is no record filed with the US Bankruptcy Court District Of Northern California, nor has JPMorgan Chase Bank presented any evidence of Proof Of Claim to any other court regarding NDSC's assertion that: "*Chase held a security interest in the Property; and (ii) the amount of Chase's claim was \$175,274.00.*"

NDSC deceitfully asserted to the Nevada Supreme Court on behalf of JPMorgan Chase Bank, who is not a party to within this case, through insinuation alone in order to mislead the Court, that Appellant, Leo Kramer affirmed Chase's claim and claim amount, both of which are blatantly false.

## **RJN-2**

In the interest of PUBLIC CONCERN and JUSTICE, Plaintiffs/Appellants ask the Court to take Judicial Notice of LICENSED Private Investigator (PSID # 4941), William J. Paatalo's Curriculum Vitae (CV) and Supplemental Declaration detailing attached exhibit-titled "**FINAL REPORT OF THE EXAMINER**".

The "**Final Report of The Examiner**" is considered a public report, authored by court-appointed "Joshua R. Hochberg, filed on 11/1/2010, in the UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE concerning Washington Mutual Bank, Inc. et al., [Case #: 08-12229 (MFW)] (DKT #: 5735), Pg. # (68) OF 369 PAGE REPORT, PARAGRAPHS 1, 2 & 3 offer facts that prove **all** of WMB's mortgage backed assets were transferred to Federal Home Loan Bank of San Francisco one week before WMB was taken into receivership by the FDIC. This information confirms that none of WMB's



assets were conveyed to Chase Bank, as they have falsely alleged to consumers and the courts.

This fact can be found on page # 68 of the report, paragraph 2, where it states the following: **“On September 10, 2008, the FHLB-SF told OTS that obtaining a blanket lien on WMB's assets would give FHLB managers more assurance to continue lending to WMB. 242 On September 18, 2010, FHLB-SF obtained a blanket lien on all of WMB's assets to secure additional borrowings.”**

Plaintiff received a **true certified copy** of the **“FINAL REPORT OF THE EXAMINER”** directly from the court clerk of the US Bankruptcy Court District of Delaware. (Note: The date "September 18, 2010" appears to be a scrivener's error and should be "September 18, 2008," given WMB entered into receivership on September 25, 2008, it would be moot for the OTS to transfer WMB's assets as collateral to FHLB-SF, via blanket-lien, after WMB entered into receivership). This scrivener's error can readily be explained and corroborated via deposition testimony of OTS's Regional Director, MR. DARREL DOCHOW, and or US Bankruptcy District of Delaware, Court-appointed examiner, JOSHUA R. HOCHBERG.

Mr. Paatalo is an Expert/Fact Witness and Forensic Auditor, specializing in the areas of Chain of Title Analyses and Securitization. Mr. Paatalo has signed under penalty of perjury his supplemental Declaration and Curriculum Vitae (CV) detailing the afore mentioned “Final Report of The Examiner”.

Furthermore, Mr. Paatalo has given his testimony, under oath, in the State of Nevada, (Case #: 18-CV-00663), as well as numerous other cases, in both State and Federal courts. The cases Mr. Paatalo has testified in can be verified and are considered public records and are listed within Mr. Paatalo's CV.

### **RJN-3**

**Alternatively**, should the court not take Judicial Notice of Mr. Paatalo's Supplemental Declaration and CV, Appellants request this Hon. Court, in the interest of Public Concern and Justice, take Judicial Notice of the "**Final Report Of The Examiner**" as a stand-alone document. Appellants have good reason to request inclusion of the "**Final Report Of The Examiner**" because the report provides facts that definitively prove that all of WMB mortgage backed assets were transferred prior to entering into receivership with the FDIC and were not and could not have been conveyed to Chase Bank. Furthermore, the report cannot reasonably be questioned and is not subject to reasonable dispute, as the report is considered a public report, authored by court-appointed "Joshua R. Hochberg, filed on 11/1/2010, in the UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE concerning Washington Mutual Bank, Inc. et al., [Case #: 08-12229 (MFW)] (DKT #: 5735), Pg. # (68) OF 369 PAGE REPORT, PARAGRAPHS 1, 2 & 3

This fact can be found on page 68 of the report, paragraph 2, where it states the following: **“On September 10, 2008, the FHLB-SF told OTS that obtaining a blanket lien on WMB's assets would give FHLB managers more assurance to continue lending to WMB. 242 On September 18, 2010, FHLB-SF obtained a blanket lien on all of WMB's assets to secure additional borrowings.”**

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## II ARGUMENT

### **The material to be noticed and its relevance to this case**

Judicial Notice is governed by Federal Rule of Evidence 201. “A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of



accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1)-(2). “[A] party requesting judicial notice bears the burden of persuading the trial judge that the fact is a proper matter for judicial notice.” *In re Tyrone F. Conner Corporation*, 140 B.R. 771, 781 (Bankr. E.D. Cal. 1992). Here, the adjudicative fact sought to be noticed is in fact proper for notice under FRE 201, and the facts are not subject to dispute and is capable of immediate and accurate determination by resort to a source whose accuracy cannot reasonably be questioned. In other words, “the fact must be one that only an unreasonable person would insist on disputing.” *United States v. Jones*, 29 F.3d 1549, 1553 (11th Cir.1994). It is irrefutable that Defendants-Appellees were not duly appointed Trustees when they commenced fraudulent, oppressive and unjust non-judicial foreclosure of Plaintiffs-Appellants’ real property. The records and documents sought to be judicially noticed by this Honorable Court are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to a source ‘whose accuracy cannot reasonably be questioned.

Furthermore, the documents are part of the public record and may be judicially noticed to show, for example, that a judicial proceeding occurred or that a document was filed in another court case, but a court may not take judicial notice of findings of facts from another case. See *Wyatt v. Terhune*, 315 F.3d 1108, 1114

& n. 5 (9th Cir.2003); *Lee v. City of Los Angeles*, 250 F.3d 668 (9th Cir.2001); *Jones*, 29 F.3d at 1553. Nor may the court take judicial notice of any matter that is in dispute. *Lee*, 250 F.3d at 689–90; *Lozano v. Ashcroft*, 258 F.3d 1160, 1165 (10th Cir.2001); *Hurd v. Garcia*, 454 F. Supp. 2d 1032, 1054-55 (S.D. Cal. 2006).

Because “[t]he court may take judicial notice at any stage of the proceeding,” it may be taken for the first time on appeal. Fed. R. Evid. 201(d); see *Bryant v. Carleson*, 444 F.2d 353, 357 (9th Cir. 1971). Paragraph (b)(2) of Rule 201 states in part that “[t]he court may judicially notice a fact that is not subject to reasonable dispute because it: . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Plaintiffs seek judicial notice of facts pertaining “[T]he most frequent use of judicial notice of ascertainable facts is in noticing the content of court records.” *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989). Accordingly, Court has held that it “may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue.”” *See for example, U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992);

III.  
CONCLUSION

For the foregoing reasons, the Court should grant this motion to take judicial notice of the Documents proffered by the Plaintiffs-Appellants

Date: 10/30/2021

Leo Kramer

Leo Kramer, Appellant, Pro Se

Date: 10/30/2021

Audrey Kramer

Audrey Kramer, Appellant, Pro Se

## CERTIFICATE OF SERVICE

Appellants hereby certify that a true and exact copy of:

### REQUEST FOR JUDICIAL NOTICE

### IN SUPPORT OF APPELLANTS' OPENING & REPLY BRIEFS

has been served upon the parties by US Mail On The Following Counsel Of Record:

Ace Van Patten  
Kevin S. Soderstrom  
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Las Vegas, NV 89135  
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Las Vegas, NV 89145  
Attorney for Breckenridge Property Fund 2016, LLC

Date: 11/1/2021 (AK)  
10/30/2021

Leo Kramer  
Leo Kramer, Appellant, Pro se

Date: 11/1/2021 (AK)  
10/30/2021

Audrey Kramer  
Audrey Kramer, Appellant, Pro se