

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

IZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
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

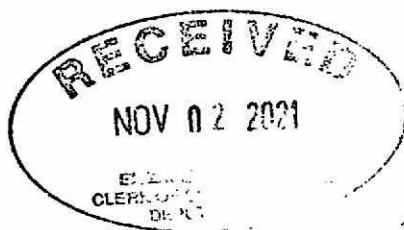
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**REQUEST FOR JUDICIAL NOTICE IN SUPPORT  
OF APPELLANTS' OPENING & REPLY BRIEFS  
LICENSED PRIVATE INVESTIGATOR, WILLIAM J. PAATALO'S  
UPDATED DECLARATION, CURRICULUM VITAE &**

**EXHIBIT- "FINAL REPORT OF THE EXAMINER" RJN-2**

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October 29, 2021



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

**LEO KRAMER & AUDREY KRAMER,**  
**pro se,**

**APPELLANTS.**

**vs.**

**NATIONAL DEFAULT SERVICING CORPORATION, et al.**

**APPELLEES.**

**Case No.: 82379**

**SECOND SUPPLEMENTAL  
DECLARATION OF PRIVATE  
INVESTIGATOR -  
WILLIAM J. PAATALO**

**I, William J. Paatalo, hereby declares as follows:**

1. I am an Oregon licensed private investigator under ORS 703.430, and have met the necessary requirements under ORS 703.415. My Oregon PSID number is 49411.

2. I am over the age of eighteen years, am of sound mind, having never been convicted of a felony or a crime or moral turpitude. I am competent in all respects to make this Declaration. I have personal knowledge of the matters declared herein, and if called to testify, I could and would competently testify thereto.

1           3. I have 17 years combined experience in law enforcement and the  
2 mortgage industry. My current resume ("CV") is attached as "Exhibit 1."

3           4. This Declaration supplements my prior Supplemental Declaration  
4 executed on or about May 29, 2020.

5           5. Over the past decade, I estimate that I have investigated more than  
6 350 cases nationally involving "Washington Mutual Bank" (WMB) loans that were  
7 allegedly acquired by the FDIC through its Receivership of WMB on 9/25/2008  
8 and subsequently sold to JPMorgan Chase Bank (Chase) via a "Purchase &  
9 Assumption Agreement" (PAA) with the FDIC. A copy of the PAA can be located  
10 on the FDIC's governmental website here: washington mutual p and a.pdf  
11 (fdic.gov).

12           6. Based upon my years of research and review of congressional reports,  
13 court filings, depositions, SEC records, production in discovery and upon  
14 subpoenas, etc., my investigative conclusions have shown and proven that WMB  
15 securitized and sold, and/or pledged, nearly all loans originated in the years 2004-  
16 2008 to global investors in both public and private securitization transactions,  
17 including the Kramer DOT. My prior Declarations regarding the chain of title and  
18 claims of beneficial interest in the Kramer DOT provide a detailed analysis of  
19 these facts and my conclusions up until May 29, 2020.

20           7. On or about June 2, 2021, the FDIC responded to a subpoena in my own  
21 federal litigation in the matter: Paatalo v. Lincoln County USDC Oregon, Case No.  
22 6:21-cv-00117-MC. As in this litigation, my case also involves a Washington  
23 Mutual Bank DOT that was originated in 2006 to which JPMorgan Chase Bank,  
24 N.A. (JPMC) has falsely claimed it acquired from the FDIC via the PAA. Per the  
25 FDIC's response, WMB sold the lien interest in my DOT to the Federal Home  
26 Loan Bank of San Francisco (FHLB-SF) prior to the FDIC's Receivership of

1 WMB on 9/25/2008. This response from the FDIC finally confirmed my analyses  
2 to be correct, and provided a key clue in exposing JPMC's false claims of having  
3 acquired all WMB mortgages and deeds through the PAA. As shown *infra*, my  
4 case is not an isolated incident, as a priority lien interest on ALL WMB assets  
5 (including the Kramer DOT) was granted to the FHLB-SF by the Office of Thrift  
6 Supervision (OTS) on 9/18/2008, a week prior to the Receivership.

7 8. First, I need to provide a bit of background. Having worked with WMB  
8 in the mortgage brokering business from 2000 – 2008, WMB's business model was  
9 to originate, securitize, and then sell the loans while retaining the servicing rights.  
10 WMB pumped and polluted the global secondary market with hundreds of billions  
11 of dollars in mortgage-backed securities (MBS) leading to its failure on 9/25/2008,  
12 and this is well documented. Notwithstanding the priority lien granted to the  
13 FHLB-SF on 9/18/2008 as shown *infra*, the FDIC deemed securitized assets as  
14 "isolated" and outside its reach in the WMB Receivership. I will re-address this  
15 from my prior Supplemental Declaration.

16 9. In year 2000, the FDIC clarified its position per its own  
17 rules and regulations that loans sold into securitization trusts were "isolated" assets  
18 outside the reach of the FDIC. Per the FDIC's regulations found on the FDIC's  
19 own government website address below, the following is explained by the FDIC:  
20 (See: <https://www.fdic.gov/news/news/financial/2000/fil0057a.html>)

21  
22 *Federal Register: August 11, 2000 (Volume 65, Number 156)]*  
23 *[Rules and Regulations]*  
24 *[Page 49189-49192]*  
25  
26

1        *Under generally accepted accounting principles, a transfer of financial*  
2 *assets is accounted for as a sale if the transferor surrenders control over the*  
3 *assets. One of the conditions for determining whether the transferor has*  
4 *surrendered control is that the assets have been isolated from the transferor, i.e.,*  
5 *put presumptively beyond the reach of the transferor and its creditors, even in*  
6 *bankruptcy or receivership. This is known as the "legal isolation" condition.*

7        *Where the transferor is an insured depository institution for which the FDIC*  
8 *may be appointed as conservator or receiver, the issue arises whether financial*  
9 *assets transferred by the institution in connection with a securitization or in the*  
10 *form of a participation would be put beyond the reach of the FDIC as conservator*  
11 *or receiver for the institution in light of (i) the statutory authority of the FDIC to*  
12 *repudiate contracts to which such institution is a party and (ii) the provisions of*  
13 *sections 11(d)(9), 11(n)(4)(I), and 13(e) of the Federal Deposit Insurance Act*  
14 *regarding the enforceability of agreements against the FDIC.*

15        *The final rule resolves these issues by clarifying the powers of the FDIC as*  
16 *conservator or receiver with respect to financial assets transferred by an insured*  
17 *depository institution in connection with a securitization or in the form of a*  
18 *participation. The FDIC believes that this clarification should provide sufficient*  
19 *assurance to determine that the legal isolation condition is met.*

20        10. This means that the FDIC sold no WMB securitized loans to JPMC via  
21 the PAA, or in this case, by any other means. Not only were the WMB securitized  
22 loans isolated from the FDIC's Receivership, including the Kramer DOT, the  
23 servicing rights to these securitized loans were also not acquired and sold to JPMC  
24 by the FDIC through the PAA. Per my research, the servicing of the WMB loans  
25 was transferred to JPMC by the FDIC as a "going concern," not by purchase,  
26 because WMB had retained the servicing rights after securitization on behalf of the

1 investors. Any continued servicing by JPMC required the approval by the  
2 securitization trustees in both the public and private securitization transactions.  
3 Typically, the Pooling & Servicing Agreements (PSA's) for these securitization  
4 transactions called for the trustee(s) to assume the servicing in the event of any  
5 default, bankruptcy, or receivership experienced by the current servicer(s).

6 Because WMB was taken into receivership and was turned over to JPMC the same  
7 day, JPMC again, continued servicing as a going concern until such time as  
8 approval could be obtained. In this case, JPMC has produced no documentation  
9 showing any authority to act as a servicing agent for the subject DOT by any  
10 investor including the FHLB-SF.

11 11. As stated above, the FDIC acquired no lien interests in any WMB  
12 asset due to a "blanket lien" that was granted by the OTS to FHLB-SF over all  
13 WMB assets on 9/18/2008, one-week before the FDIC Receivership. The "blanket  
14 lien" is outlined in the Final Examiner's Report that was produced in the matter:  
15 Washington Mutual, Inc., Debtor, USBK Dist. Delaware, Case No. 08-  
16 12229(MFW) on November 1, 2010 (Exhibit 2). Per the Examiner's Report, the  
17 following is stated on P. 68,

18  
19 On September 10, 2008, the FHLB-SF told OTS that obtaining a blanket lien on WMB's  
20 assets would give FHLB managers more assurance to continue lending to WMB.<sup>242</sup> On  
21 September 18, 2010, FHLB-SF obtained a blanket lien on all of WMB's assets to secure  
22 additional borrowings.  
23

24 (Notes: I retrieved this Report from the Federal Court's PACER System. The date  
25 "September 18, 2010" appears to be a scrivener's error and should be "September  
26 18, 2008.)

12. This "blanket lien" gave the FHLB-SF a priority lien interest on ALL WMB assets over the FDIC's Receivership per 12 U.S.C. §1430,

***(e) Priority of certain secured interests***

*Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than claims and rights that--*

*(1) would be entitled to priority under otherwise applicable law; and*

*(2) are held by actual bona fide purchasers for value or by actual secured parties that are secured by actual perfected security interests.*

13. This leaves no doubt that the FDIC acquired no lien interests in any WMB mortgages or deeds in its receivership of WMB that it could sell to JPMC, and that JPMC's repeated claims that it owned or acquired any rights in the Kramer DOT have been false. Even Section 3.3 of the PAA discloses that the FDIC made no representations or warranties in the conveyance of any assets, "*With respect to title, enforceability, collectability, documentation or freedom from liens or encumbrances (whole or in part), or any other matters.*"

**3.3 Manner of Conveyance; Limited Warranty; Nonrecourse; Etc. THE CONVEYANCE OF ALL ASSETS, INCLUDING REAL AND PERSONAL PROPERTY INTERESTS, PURCHASED BY THE ASSUMING BANK UNDER THIS AGREEMENT SHALL BE MADE, AS NECESSARY, BY RECEIVER'S DEED OR RECEIVER'S BILL OF SALE, "AS IS", "WHERE IS", WITHOUT RECOURSE AND, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, WITHOUT ANY WARRANTIES WHATSOEVER WITH RESPECT TO SUCH ASSETS, EXPRESS OR IMPLIED, WITH RESPECT TO TITLE, ENFORCEABILITY, COLLECTIBILITY, DOCUMENTATION OR FREEDOM FROM LIENS OR ENCUMBRANCES (IN WHOLE OR IN PART), OR ANY OTHER MATTERS.**

1 14. In arguendo, even if the FDIC had controlled any property interests (it  
2 didn't), it could not convey marketable title to any asset, including the Kramer  
3 DOT, because it was attempting to convey the unknown "as is" "without any  
4 warranties whatsoever" with respect to title and enforceability. Logic thus dictates  
5 that nothing was conveyed to JPMC by the FDIC.

6 15. As outlined in my original Declaration, no schedule of any WMB assets  
7 exists or has ever been produced as contemplated in the PAA because there was no  
8 inventory on WMB's books and records of any identifiable assets being conveyed.

9 16. More importantly, JPMC has never produced any "Bill of Sale" or  
10 "Receiver's Deed" as required by the FDIC in Section 3.3 of the PAA. Rather,  
11 JPMC has relied upon a false assignment of the Kramer DOT unto itself, acting as  
12 attorney in fact" for the FDIC, all the while hiding and concealing from the Court  
13 that the FHLB-SF held a priority lien interest in the subject DOT prior to WMB's  
14 failure on 9/25/2008.

15  
16 **I hereby declare under the laws of the Unites States and the State of**  
17 **Nevada that the above statement is true to the best of my knowledge and**  
18 **belief, and that I understand it is made for use as evidence in court and is**  
19 **subject to penalty for perjury.**

20 Date: 9/8/21

21  
22 

23 William J. Paatalo

24 Private Investigator – Oregon PSID# 49411

**William J. Paatalo**  
476 Labrie Drive  
Whitefish, MT 59937  
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## **Curriculum Vitae**

William Paatalo has been a licensed private investigator since September of 2009. He has 17 years combined experience in both law enforcement and the mortgage industry which he has utilized to become a leading expert in the areas of chain of title analyses and securitization. He was a police officer with the St. Paul, Minnesota Police Department from 1990-1996 where he was assigned "Field Training Officer" duties in only his second year on the job and received multiple commendations.

Mr. Paatalo worked in the mortgage industry as a "loan officer" with Conseco Home Finance from 1999 – 2000, followed by two years of being a branch manager for multiple mortgage brokering firms. From 2002 – 2008, he became the President of Midwestern Mortgage, LLC f/k/a Wissota Mortgage, LLC in Wisconsin and Minnesota. As President of Wissota Mortgage, LLC, Mr. Paatalo was responsible for overseeing the origination, processing, and underwriting of mortgage loans, as well as managing a staff of 17 employees.

Mr. Paatalo has worked exclusively since 2010 investigating foreclosure fraud, chain of title, the securitization of residential and commercial mortgage loans, and accounting issues relevant to alleged "defaults, and has spent more than 15,000 hours conducting investigatory research specifically related to mortgage securitization and chain of title analysis. He has performed such analyses for residential real estate located in many states, including but not limited to, Washington, Oregon, California, Nevada, Florida, Montana, Texas, Arizona, Ohio, New Jersey, and several other states. To date, Mr. Paatalo has conducted more than 1,200 investigations across the U.S. and has provided written expert testimony in the form of affidavits and declarations in approximately 300 -350 cases nationwide. Mr. Paatalo has been qualified in both state and federal courts as an expert, and personally appeared and testified at trial in the cases

outlined below. This experience has led to Mr. Paatalo becoming one of the leading national experts in this field.

Mr. Paatalo's specific areas of expertise allowed by the courts in the cases referenced below are as follows:

- Knowledge of the "Pooling & Servicing Agreements" and various Securities & Exchange Commission (SEC) filings associated with mortgage-backed securitized trusts.
- Specific language in the PSA's and Prospectus / Prospectus Supplements involving securitization participants, key dates, "Servicer Advances," sources of third-party payments, and transfer and conveyancing requirements to name a few.
- Knowledge and use of the Bloomberg Terminal, ABSNet, MBSData and the interpretation of its internal accounting data showing "advance payments" made to the certificateholders / investors, as well as other information specific to accounting, chain of title, and other aspects of securitization.
- Chain of Title analyses based upon publicly recorded documents, documents produced in discovery, and documents attached as exhibits to foreclosure complaints. Documents typically include mortgages, deeds of trust, assignments, notes, and allonges; in addition to documents filed under penalty of perjury with the SEC.

### **Relevant Experience:**

- Police Officer / "Field Training Officer" – St. Paul, MN 1990-1996.
- Oregon licensed private investigator under ORS 703.430, and has met the necessary requirements under ORS 703.415. To obtain his PI license, Mr. Paatalo met the requirement of 5,000 hours of investigation experience in the law enforcement field and passed a thorough background investigation and criminal history check.
- Member of the "Oregon Association of Licensed Investigators" (OALI.)
- President of Midwestern Mortgage, LLC f/k/a Wissota Mortgage, LLC in Wisconsin and Minnesota from 2002 – 2008.

## **Achievements:**

- “2013 - Fraud Investigator of the Year” – “The Foreclosure Hour with Gary Dubin” – KHVH – AM, Honolulu, HI.
- Guest Speaker “Illinois Association of Foreclosure Defense Attorneys” – February 20, 2017. (<http://www.afdailinois.org/>)
- Presenter in the March 2018 webinar titled “Mastering Discovery And Evidence In Foreclosure Defense” sponsored by Neil Garfield, Esq., The Garfield Firm, and GTC Honors, LLC.
- Co-Authored eBook titled “Table-Funding And Securitization Go Hand In Hand” – December 2015.

## **Education:**

A.A.S. – Law Enforcement – Normandale C.C., Bloomington, MN – 1986  
University of North Alabama, Florence, AL 1986-1987 – Marketing Public Relations  
Marketing Management Certificate – Concordia University, St. Paul, MN 2001

## **Expert Testimony (Trial):**

### **FEDERAL CASES**

#### **MONTANA**

Robert T. Fanning, Debtor – U.S. Bankruptcy Court, District of Montana – BK Case No. 10-61660

#### **CALIFORNIA**

Rivera v. Deutsche Bank National Trust Company, U.S. BK Court, Northern CA – Oakland – Case No. 14-54193-MEH-13.

#### **WASHINGTON D.C.**

Quinteros v. National Home Investors, et.al., U.S.BK Court, D.C., Case No. 19-00195-SMT.

## **OREGON**

Brent Evan Webster aka Webster Technologies, Debtor – U.S. Bankruptcy Court, District of Oregon, Case No. 19-34090-pcm13

## **STATE CASES**

### **CALIFORNIA**

Dang v. HSI Asset Securitization Trust 2006-OPT1, Mortgage-Pass-Through Certificates, Series 2006-OPT1, California Superior Court, County of Alameda, Case No. RG14743930

Koeppel v. Central Pacific Mortgage, California Superior Court, County of Monterey, Case No. M133160.

PennyMac Holdings, LLC v. Mario Carini, et. al., California Superior Court, County of San Diego, Case No. 37-2017-00039675-CL-UD-CTL.

### **CONNECTICUT**

JPMorgan Chase Bank, N.A. v. Geronimos et. al., Connecticut Superior Court, Stamford/Norwalk, Case No.FST-CV13-6017139-S

### **FLORIDA**

U.S. Bank as Trustee for WMALT 2006-AR5 v. Paul Landers, et al., 20th Judicial Circuit for Lee County, FL Case No.: 14-CA-051647

Bank of America, N.A. v. Jorge A. Castro, et al., 17th Judicial Circuit for Broward County, FL Case No.: 12-06339-11

U.S. Bank Trust NA as Trustee for LSF9 Master Participation Trust v. James K. Murphy, et al., 15th Judicial Circuit for Palm Beach County, FL Case No.: 50-2017-CA-012236-XXXX-MB

### **OHIO**

Washington Mutual Bank fka Washington Mutual Bank, F.A. v. Jon A. Smetana, et al., In The Court of Common Pleas, Cuyahoga County, Ohio Case No.CV-08-652392

## **OREGON**

U.S. Bank, N.A.as Trustee v. Natache D. Rinegard-Guirma, et al. - Circuit Court For The State Of Oregon, County Of Multnomah - Case No. 1112-16030

## **NEW YORK**

Deutsche Bank National Trust Company, as Trustee v. Ledgerwood, Sup. Ct NY, Co. Richmond,  
Case No. 135896/2016

## **NEVADA**

Kramer v. National Default Servicing Corp., Dist. Ct, Clarke County, NV Case No. 18-CV-00663

## **MISSOURI**

HSBC Bank USA, N.A. v. Spence – Circuit Court, Green County, MO Cases: 3117-CC00213,  
3117-CC00214, 3117-CC00215, 3117-CC00216, 3117-CC00217.

Wells Fargo Bank, N.A. v. Spence – Circuit Court, Green County, MO Case No. 1731-CC00228