

IN THE SUPREME COURT OF THE STATE OF NEVADA

TYRONE KEITH ARMSTRONG,
Appellant,
vs.

U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR STRUCTURED
ASSET SECURITIES CORPORATION
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-BC3;
OCWEN LOAN SERVICING, LLC; PHH
MORTGAGE CORPORATION; AND
WESTERN PROGRESSIVE-NEVADA,
INC.,
Respondents.

No. 86920

FILED

AUG 11 2023

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

*ORDER REGARDING PRO BONO COUNSEL AND DIRECTING
TRANSMISSION OF RECORD*

This is an appeal from a district court order granting motions for summary judgment, denying a motion for summary judgment, and dismissing remaining claims. Having considered the documents transmitted by appellant, this court has determined that the appointment of pro bono counsel to represent appellant would assist this court in reviewing this appeal. By this order, the court expresses no opinion as to the merits of this appeal.

Pro bono counsel is an attorney who provides legal services without charge for the benefit of the public good. The appointment of pro bono counsel provides attorneys with an opportunity to volunteer legal services in furtherance of their professional responsibility and, at the same time, allows financially eligible litigants access to quality legal representation without cost. Counsel will be appointed for purposes of this

appeal only and will participate in oral argument. Currently, the Pro Bono Committee of the Appellate Litigation Section of the State Bar of Nevada (Pro Bono Committee), in conjunction with the Legal Aid Center of Southern Nevada, has developed a pro bono appellate program to assist the public and this court. This case is hereby referred to the program established by the Pro Bono Committee to evaluate whether appellant can benefit from the program.

Accordingly, the clerk of this court is directed to transmit a copy of this order and the attached case summary and district court order to the Legal Aid Center of Southern Nevada for financial eligibility screening. If appellant qualifies and does not object to pro bono counsel, the Legal Aid Center in cooperation with the Pro Bono Committee shall locate a volunteer attorney from the program to represent the party. Once an attorney is located, the attorney shall file a notice of appearance in this court within 60 days from the date of this order. Briefing and oral argument will be scheduled thereafter. Alternatively, if appellant is not financially eligible or objects to pro bono representation, or if a volunteer attorney cannot be located, the Legal Aid Center of Southern Nevada shall notify this court in writing within 60 days from the date of this order. In such case, oral argument will not be held. The briefing schedule in this appeal shall be suspended pending further order of this court.

This court further concludes that review of the complete record is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in District Court Case No. A-19-796941-C. *See* NRAP 11(a)(2) (providing that the complete "record shall contain each and every paper, pleading and other document filed, or

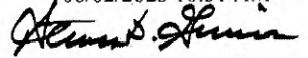
submitted for filing, in the district court," as well as "any previously prepared transcripts of the proceedings in the district court"). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1).

It is so ORDERED.

Shiglin, C.J.

cc: Tyrone Keith Armstrong
Houser LLP
Fox Rothschild, LLP/Las Vegas
Legal Aid Center of Southern Nevada, Barbara E. Buckley,
Executive Director
Paul Ray, Coordinator, Appellate Litigation Section,
Pro Bono Committee, State Bar of Nevada
Kelly Dove
Eighth District Court Clerk

Appellant filed a complaint for wrongful foreclosure, quiet title, declaratory relief, and slander of title in 2019; he subsequently amended his complaint in 2020. As the basis for his claims, he argued that a 2007 mortgage and 2010 notice of default and intent to sell were invalid, arguing that the 2007 loan documents were inauthentic and unenforceable. Appellant moved for summary judgment on his claims, and respondents filed countermotions for summary judgment based on the statute of limitations. The district court denied appellant's motion, finding that there were disputed genuine issues of material fact. It further granted respondents' motions finding that the claims were barred by statute of limitations, and, as relevant for this appeal, that the 5-year statute of limitations under NRS 11.080 barred his claim to quiet title. Appellant appealed that decision in docket no. 83545 and this court affirmed in part, reversed in part, and remanded solely for reconsideration of the quiet title claim, after determining that the 2010 notice of default did not trigger the five-year limitations period. The district court issued an order on June 2, 2023, dismissing the quiet title claim with prejudice. Appellant has now appealed pro se and is in forma pauperis.


CLERK OF THE COURT

1 **OCSJ**

2 MARK J. CONNOT (10010)
3 KEVIN M. SUTEHALL (9437)

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11 *Attorneys for Defendant U.S. Bank National*
12 *Association, as Trustee for Structured Asset Securities*
13 *Corporation Mortgage Pass-Through Certificates,*
14 *Series 2007-BC3*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 TYRONE KEITH ARMSTRONG,

18 Plaintiff,

19 vs.

20 U.S. BANK NATIONAL ASSOCIATION, as
21 Trustee for Structured Asset Securities
22 Corporation Mortgage Pass-Through
23 Certificates, Series 2007-BC3; OCWEN
24 LOAN SERVICING, LCC; PHH
25 MORTGAGE CORPORATION; WESTERN
26 PROGRESSIVE-NEVADA, INC.; BNC
27 MORTGAGE, INC., DOES 1 through 20;
28 ROE BUSINESS ENTITIES 1 through 20,

29 Defendants.

Case No.: A-19-796941-C

Dept.: 7

ORDER (1) GRANTING DEFENDANT U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR STRUCTURED ASSET SECURITIES CORPORATION MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-BC3'S MOTION FOR SUMMARY JUDGMENT; (2) GRANTING DEFENDANT PHH MORTGAGE CORPORATION, FOR ITSELF AND AS SUCCESSOR TO OCWEN LOAN SERVICING, LLC'S MOTION FOR SUMMARY JUDGMENT; AND (3) DENYING PLAINTIFF TYRONE KEITH ARMSTRONG'S COUNTER-MOTIONS FOR SUMMARY JUDGMENT

30 AND RELATED COUNTERCLAIM

31
32 The following motions came on for hearing on May 18, 2023 at 9:00 a.m., before the
33 Honorable Judge Danielle K. Chio: (1) Defendant U.S. Bank National Association, as Trustee for
34 Structured Asset Securities Corporation Mortgage Pass-Through Certificates, Series 2007-BC3's
35 ("U.S. Bank Trust's") Motion for Summary Judgment filed on January 17, 2023 (the "U.S. Bank
36 Trust Motion"); (2) Defendant PHH Mortgage Corporation, for itself and as Successor to Ocwen

1 Loan Servicing, LLC's ("PHH's") Motion for Summary Judgment filed on November 14, 2022 (the
2 "PHH Motion"); and (3) Plaintiff Tyrone Keith Armstrong's ("Plaintiff's") Countermotions for
3 Summary Judgment filed on March 14, 2023 ("Plaintiff's Countermotions"). U.S. Bank Trust and
4 PHH may sometimes be referred to collectively as "Defendants."

5 The Court notes the following procedural history:

6 • Plaintiff filed his initial Complaint in this matter on June 18, 2019 (the "Complaint").
7 The Complaint concerned a certain deed of trust recorded by lender, BNC Mortgage, Inc. ("BNC"),
8 on January 25, 2007 (the "2007 Deed of Trust") against Plaintiff's real property located in Clark
9 County, Nevada, which real property is commonly known as 3713 Brentcove Drive, North Las
10 Vegas, Nevada 89032, with Clark County Assessor's Parcel Number 139-09-217-099 (the
11 "Property").

12 • On December 7, 2020, Plaintiff filed a Motion for Leave to File First Amended
13 Complaint ("Motion for Leave to Amend"). In the Motion for Leave to Amend, Plaintiff specifically
14 "set aside" his prior claims of forgery and fraud, among others. *Id.* at 2:21-2:22.

15 • The Motion for Leave to Amend was granted, and Plaintiff filed his First Amended
16 Complaint in this matter on February 27, 2021 (the "First Amended Complaint").

17 • The First Amended Complaint included causes of action for: (1) wrongful foreclosure;
18 (2) quiet title; (3) declaratory relief; and (4) slander of title. Each claim related to the Property, the
19 2007 Deed of Trust, and the related the 2007 adjustable rate note in the amount of \$237,000 between
20 BNC and Plaintiff (the "2007 Note").

21 • After Plaintiff filed the First Amended Complaint, the parties filed cross-motions for
22 summary judgment on Plaintiff's remaining claims.

23 • By order filed August 25, 2021, notice of entry of which was filed August 26, 2021,
24 the Court denied Plaintiff's motion and granted Defendants' countermotions for summary judgment.
25 See Notice of Entry of Order Denying Plaintiff's Amended Motion for Partial Summary Judgment
26 and Granting Defendants' Countermotions for Summary Judgment on Statutes of Limitations
27 Grounds, on file. The Court held that all of Plaintiff's claims were barred by their respective statutes
28 of limitations.

1 • Plaintiff filed a notice of appeal. *See* Notice of Appeal dated September 15, 2021, on
2 file.

3 • On August 11, 2022, the Nevada Supreme Court issued an order affirming this Court's
4 decision on all claims except for the quiet title claim, which it reversed and remanded to this Court
5 for further proceedings. *See* Order Affirming in Part, Reversing in Part, and Remanding dated
6 August 11, 2022. As a result, Plaintiff's quiet title claim is the sole remaining cause of action against
7 U.S. Bank Trust and PHH.

8 • PHH filed the PHH Motion on November 14, 2022.

9 • U.S. Bank Trust filed its Joinder to the PHH Motion on January 17, 2023.

10 • U.S. Bank Trust filed the U.S. Bank Trust Motion on January 17, 2023.

11 • PHH filed its joinder to the U.S. Bank Trust motion on January 17, 2023.

12 • Plaintiff filed his Opposition to the PHH Motion and his Countermotion for Summary
13 Judgment on March 14, 2023.

14 • Plaintiff filed his Opposition to U.S. Bank Trust's Motion and his Countermotion for
15 Summary judgment on March 14, 2023.

16 • PHH filed its Reply to Plaintiff's Opposition to Motion for Summary Judgment; and
17 Opposition to Plaintiff's Late Countermotion for Summary Judgment on April 25, 2023.

18 • U.S. Bank Trust filed its Reply in Support of the U.S. Bank Trust Motion; and
19 Opposition to Plaintiff's Countermotion for Summary Judgment on April 25, 2023.

20 • U.S. Bank Trust and PHH each filed joinders to each other's reply briefs on April 25;
21 2023.

22 • The Court heard oral argument on the U.S. Bank Motion, the PHH Motion, and
23 Plaintiff's Countermotions on May 18, 2023.

24 The Court, having reviewed the pleadings and papers on file herein, and having heard the
25 arguments of counsel, and good cause appearing, **FINDS AND ORDERS AS FOLLOWS:**

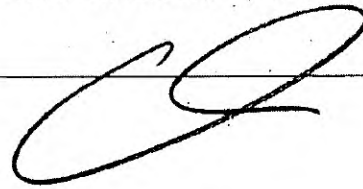
26 For the reasons set forth in the U.S. Bank Trust Motion, the PHH Motion, and U.S. Bank
27 Trust's and PHH's respective reply briefs and oppositions to Plaintiff's Countermotions, and because
28 there are no genuine disputes as to any material fact, and because U.S. Bank Trust and PHH are

entitled to judgment as a matter of law, summary judgment be and the same is hereby **GRANTED**
in favor of U.S. Bank Trust and PHH;

For the reasons set forth in Defendants' respective briefs, the Court **DENIES** Plaintiff's
Counter motions; and

IT IS SPECIFICALLY ORDERED that Plaintiff's sole remaining claim in the First
Amended Complaint, for quiet title, is dismissed with prejudice.

Dated this 2nd day of June, 2023



Submitted by:

FOX ROTHSCHILD LLP

/s/ Kevin M. Sutehall

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Pass-Through Certificates, Series 2007-BC3*

**98C 766 D20A B148
Danielle Chio
District Court Judge**

Approved:

HOUSER LLP

/s/ Jeffrey S. Allison

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