

DISTRICT COURT, BOULDER COUNTY, COLORADO
Court Address: 17776th street, CO 80302

< COURT USE ONLY >

Plaintiff:

TOBIAH FERNSLER

v.

Defendants:

REAL TIME RESOLUTIONS
BAYVIEW LOAN SERVICING
BANK OF AMERICA

BANK OF AMERICA NA

Megastar Financial Corp.

Countrywide Home Loans

Mortgage Electronic Registration Systems, Inc.;

MERSCORP, Inc.

The Bank of New York Mellon FKA The Bank of New York,
as Trustee for the Certificateholders Cwalt, INC. Alternative
Loan Trust 2006-14CB Mortgage Pass-Through Certificates,
Series 2006-14CB

The Bank of New York Mellon fka The Bank of New York,
as Trustee (Cwalt 2006-14CB)

Boulder County Public Trustee

Unknown Defendants/Claimants whether individuals,
corporations, trusts or other entities.

**Presumed Attorneys for defendants BNYM, Trustee,
MERS, Merscorp, and Bayview**

Stacey Aronowitz #36290

Radall M. Chin #31149

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Case No. 2014 CV 106

Plaintiff: Tobiah P. Fernsler, pro se

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Boulder, CO 80305

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RESPONSE TO REPLY TO RESPONSE TO MOTION TO DISMISS CASE NO. 2014 CV 106

cc: Aronowitz & Mecklenburg, LLP 303-813-1107

I. Merscorp is not being sued for monetary damages. It is included in this lawsuit because it may claim an interest in the Subject Property at 525 South 44th Street, Boulder CO 80305, have documents of relevance to the case, would like to assert its rights, and for title of the house. If indeed Merscorp has no interest in Subject Property, it may state this and dismiss any claims or liability in the matter. Merscorp is often party to cases where MERS is a defendant, and it would be a waste of resources to exclude Merscorp now only to name them later.

II. Presumed attorney for Defendants Randall Chin makes a clever argument for a bank's right to foreclose without submitting real evidence of debt. I dispute the conclusion as violating due process and support Lisa Brumfield's Federal lawsuit challenging the Constitutionality of Rule 120 foreclosures (Case No. 12-CV-02716). In any case it is irrelevant, there is no foreclosure pending on Subject Property . This is not a counter-claim, it is a claim seeking damages, documents, and title.

The cloud on title is described in Exhibit 4, Attorney Scott Dennison's Chain of Title Assessment. If Attorney for Defendants would wait to read this before moving to dismiss they would see there is in fact a strong claim to quiet title, and that their claim otherwise is without merit.

Over the last three years of foreclosure actions by the Defendants, I have been blocked by a remarkable string of their clerical errors from curing or refinancing the debt. Foreclosure-undermined credit and a cloud on title have prevented me from obtaining title insurance, refinancing or selling with any reputable third party. Significant inconsistencies and faults exist with and between nearly every document submitted by Defendants during this process, which further undermines their claim to title or knowledge of the debts in question. The defendants and myself have been unable to resolve our disputes directly or indirectly, and I believe the Court's intervention is both timely and necessary for a fair and complete settlement of this exhausting and complex matter.

Meanwhile there presumably is an actual investor in Subject Property, as yet unknown and unnamed, who may be unaware that the debt has been declared in default or that foreclosure was brought in their name. The Defendants named have yet to produce evidence of actual harm to the holder in due course, and thus to themselves.

Therefore I the Plaintiff, Tobiah Fernsler, owner and occupant of Subject Property, request the Court allow this case to continue, and make a complete adjudication of the rights of all parties to the Subject Property, and grants such relief as is proper.

Respectfully submitted this 22nd Day of October 2014.

Tobiah Fernsler