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6
7 **IN THE DISTRICT COURT FOR THE SECOND JUDICIAL DISTRICT**
8 **FOR THE STATE OF IDAHO, IN AND FOR NEZ PERCE COUNTY**

JEREMY L. BASS,

Plaintiff,

vs.

BANK OF AMERICA, N.A.,
CARRINGTON MORTGAGE SERVICES, LLC,
RECONTRUST COMPANY, N.A.,
Randall Szabo, c/o IDEA Law Group, LLC,
MICHAEL J. NEWELL, c/o IDEA Law Group, LLC,
DOE I-X

Defendants.

Case No. CV35221875

**AFFIDAVIT IN OPPOSITION OF:
- Any Statutory Concerns**

DEMAND FOR JURY

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11
12 COMES NOW Plaintiff, JEREMY L. BASS, AND PROVIDES THIS AFFIDAVIT IN SUPPORT OF THE
13 COMPLAINT AND MOTIONS in regards to his knowledge of events and everything he believes to be
14 true regarding interactions with Carrington Mortgage, Bank of America, and parties. The reason
15 for this affidavit is to help meet the page limits defined in District Local Rule Civ 7.1 (Civil) [v. 4].

16 I, Jeremy L. Bass, Pro Se, hereby make the following statements of fact as to his personal
17 knowledge and attest the same to be accurate to the best of his knowledge:

18
19 This memorandum addresses the issue of statutory limitations for filing a suit against
20 the defendants for perpetuating misinformation and engaging in fraudulent activities to the
21 detriment of their victims. The argument posits that the statutory limits have not been run out or

1 even kicked in, given the ongoing nature of the deceptive acts and the unjust enrichment that
2 the bank continues to reap.

3 4 I. The Discovery Rule as a basis for tolling the Statute of Limitations

5 The statute of limitations may not have run out if the discovery rule applies. Under the
6 discovery rule, the statute of limitations does not begin to run until the injured party discovers
7 or reasonably should have discovered, the cause of action. This principle has been upheld in
8 several Idaho cases, such as *Harrigfeld v. Hancock*, 140 Idaho 134, 90 P.3d 884 (2004) and *Moon v.*
9 *Investment Co.*, 110 Idaho 7, 714 P.2d 93 (1986).

10
11 Applying the discovery rule, the statute of limitations would not begin to run until the
12 plaintiff discovered, or should have discovered, the bank's fraudulent activities. If the bank has
13 taken active steps to conceal the fraud, it is possible that the plaintiff did not realize the
14 wrongdoing until recently, meaning that the statute of limitations has not yet expired.

15 16 II. Fraudulent Concealment as a basis for tolling the Statute of Limitations

17 Fraudulent concealment is another doctrine that can toll the statute of limitations. Under
18 Idaho law, the statute of limitations may be tolled if a defendant actively conceals the existence
19 of a cause of action. See, e.g., *Doe v. Durtschi*, 110 Idaho 466, 716 P.2d 1238 (1986). To establish
20 fraudulent concealment, a plaintiff must demonstrate that the defendant concealed the
21 existence of the cause of action through affirmative acts, that the plaintiff was not aware of the
22 cause of action, and that the plaintiff's ignorance was not the result of a lack of diligence. See,
23 e.g., *Farmers Ins. Exchange v. Sipple*, 144 Idaho 882, 174 P.3d 507 (2007).

1 In this case, if the bank actively concealed the original fraud, and the plaintiff was
2 unaware of the cause of action due to the bank's misrepresentations, the statute of limitations
3 may be tolled. The plaintiff must be able to demonstrate that they exercised reasonable
4 diligence in attempting to discover the cause of action but were unable to do so due to the
5 bank's fraudulent concealment.

6 7 III. Continuing Violation Doctrine as a basis for tolling the Statute of Limitations

8 The continuing violation doctrine is another potential avenue to argue that the statute of
9 limitations has not run out. Under this doctrine, the statute of limitations does not begin to run
10 until the wrongful conduct ceases. See, e.g., Doe v. Boy Scouts of America, 159 Idaho 103, 356 P.3d
11 1049 (2015). This doctrine is typically applied to cases involving ongoing or continuous wrongful
12 conduct, as opposed to discrete, completed acts.

13
14 In the present case, if the bank still engages in acts of deception and continues to
15 benefit from the unjust enrichment, the continuing violation doctrine may apply. The plaintiff
16 must establish that the bank's deceptive conduct is ongoing and continuous rather than discrete,
17 completed acts.

18 19 Overview Conclusion

20 In summary, the discovery rule, fraudulent concealment, and the continuing violation
21 doctrine all provide potential arguments that the statute of limitations has not run out or even
22 kicked in for filing a suit against the bank. Each of these doctrines requires specific factual
23 showings to be made by the plaintiff, which, if successfully established, could enable them.
24 Satisfaction will be found with the following application of facts.

1
2 I. Discovery Rule

3 The discovery rule is a well-established principle under Idaho law that can delay the
4 commencement of the statute of limitations period. The Idaho Supreme Court has applied the
5 discovery rule in numerous cases, such as Harrigfeld v. Hancock, 140 Idaho 134, 90 P.3d 884
6 (2004), and Moon v. Investment Co., 110 Idaho 7, 714 P.2d 93 (1986).

- 7
- 8 1. To invoke the discovery rule, the plaintiff must demonstrate the following factual
9 showings:
 - 10 2. The plaintiff did not discover, and reasonably could not have discovered, the cause of
11 action earlier.
 - 12 3. The bank's fraudulent activities were concealed and not reasonably discoverable by the
13 plaintiff through due diligence.
 - 14 4. The date when the plaintiff discovered or should have discovered the fraudulent
15 activities.

16 In the present case, the plaintiff argues that they only became aware of the bank's
17 fraudulent conduct within the past 16 months, despite diligently reviewing their financial records
18 and communications with the bank over the years. As shown in the exhibits, Mr. Bass proves he
19 fulfilled his requirement of a customer's due diligence by having copies of important events and
20 notices regarding this account able to be produced. The documents and records in exhibits of
21 this case span the life of the whole loan. While addressing the court, the defendants' inability to
22 produce documents of importance and paperwork juggling are themselves unable to say the
23 same.

1 These matters of fact have demonstrated that the plaintiff exercised due diligence but
2 could not discover the cause of action earlier due to the bank's concealment of its fraudulent
3 activities without extenuating circumstances. They are so entrenched in the deception that they
4 are willing to risk injury to a new innocent party by conducting the sale while knowing that they
5 have been exposed. So deep-seated are they; their best action is to keep pushing to sell now
6 when they were not in a rush before when holding the plaintiff on forbearance six months longer
7 than they should not have. The defendants are just proceeding forward with their current actions
8 as if they were not beholden to the courts or the people but are unrepachable, so they don't
9 need to be held to the measure of their conduct. Their stance to proceed with the trustee's
10 unatoned sale is not short of a statement that they believe it is acceptable to commit crimes if
11 you can go undetected long enough to meet the statute of limitations.

12 13 II. Fraudulent Concealment

14 Fraudulent concealment is a recognized basis for tolling the statute of limitations under Idaho
15 law. The Idaho Supreme Court has upheld the doctrine of fraudulent concealment in various
16 cases, such as Doe v. Durtschi, 110 Idaho 466, 716 P.2d 1238 (1986), and Farmers Ins. Exchange v.
17 Sipple, 144 Idaho 882, 174 P.3d 507 (2007).

18
19 To establish fraudulent concealment, the plaintiff must demonstrate the following factual
20 showings:

- 21 1. The bank actively concealed the existence of the cause of action through affirmative acts.
- 22 2. The plaintiff was not aware of the cause of action.
- 23 3. The plaintiff's ignorance was not the result of a lack of diligence.

1 In the present case, the plaintiff can argue that the bank fraudulently concealed its
2 wrongful conduct through a pattern of deceptive communications, misrepresentations, and
3 manipulation of records. Despite exercising reasonable diligence, the plaintiff could not discover
4 the fraud due to the bank's efforts to hide it through paperwork. They have shown a pattern of
5 changing things at their will, making it up as they go, and blaming it on someone else while
6 presenting themselves as if they are not involved. This shell game is one of pawns, but where the
7 interest lies is where the buck stops.

8 9 III. Continuing Violation Doctrine

10 The continuing violation doctrine, under Idaho law, may be applied to toll the statute of
11 limitations in cases where the wrongful conduct is ongoing and continuous rather than
12 constituting discrete, completed acts. The Idaho Supreme Court has recognized and applied the
13 continuing violation doctrine in various cases, such as Doe v. Boy Scouts of America, 159 Idaho
14 103, 356 P.3d 1049 (2015), where the court found that the continuing violation doctrine applied to
15 a claim involving ongoing sexual abuse.

16
17 To successfully invoke the continuing violation doctrine, the plaintiff must demonstrate
18 the following factual showings:

- 19
- 20 1. The bank's wrongful conduct is ongoing and continuous, as opposed to discrete,
21 completed acts.
 - 22 2. The plaintiff continues to suffer harm as a result of the ongoing wrongful conduct.
 - 23 3. The statute of limitations should not begin to run until the wrongful conduct ceases.
- 24

1 In the present case, the plaintiff can argue that the bank's ongoing misrepresentation of
2 information and engagement in fraudulent activities to enrich itself at the plaintiff's expense
3 unjustly constitutes a continuing violation. The most recent act of deception occurred within the
4 past month, demonstrating the continuous nature of wrongful conduct. Moreover, the bank's
5 actions are intentionally designed, knowing that they would further injure the plaintiff and force
6 them to suffer harm due to the ongoing deception.

7 In furthering the cause to decide for the plaintiff and grant leave to make corrections as
8 needed to allow the case to proceed unbarred by statutes of limitations, we would look to The
9 Supreme Court has recognized that the decision to waive the statute of limitations is a claims-
10 processing decision, which is within the district court's discretion. As stated in Wilkins v. United
11 States (2023), "Section 2409a(g) is a nonjurisdictional claims-processing rule. The Court of
12 Appeals' contrary judgment is reversed, and the case is remanded for further proceedings
13 consistent with this opinion." Additionally, lower courts have recognized the authority to grant
14 waivers in certain circumstances. In Keene Corp. v. United States (2d Cir. 1990), the Second Circuit
15 Court of Appeals held that "tolling is permitted when the Government has concealed its own
16 wrongdoing and thereby prevented the plaintiff from obtaining the necessary information to file
17 suit." Similarly, in Irwin v. Department of Veterans Affairs (1990), the Supreme Court stated that
18 "equitable tolling may be applied if, despite all due diligence, a plaintiff is unable to obtain vital
19 information bearing on the existence of his claim."

20 Therefore, it is reasonable to argue that the district court has the authority to consider
21 whether equitable circumstances warrant tolling or waiver of the statute of limitations in the
22 interest of protecting access to justice. The doctrine of equitable tolling applies in situations
23 where the claimant has actively pursued his judicial remedies by filing a defective pleading
24 during the statutory period or where the complainant has been induced or tricked by his

1 adversary's misconduct into allowing the filing deadline to pass. In such situations, the court may
2 extend the deadline for filing the claim.

3 The defendants have shown throughout the exhibits to have contradicted themselves
4 and engaged in actions meant to continue the fraud's concealment. In this case, the defendants
5 have continued to benefit from the fraudulent conduct for years while actively concealing the
6 wrongdoing from the plaintiff. Despite knowing that Mr. Bass' account was in a defunct state if
7 not invalidated, the servicing arm of the bank continued to collect on accounts they knew to be
8 in error. That they understood the invalidated state is shown in their actions to get backdated
9 contracts signed, as well as the many other activities attested to in related documents also
10 submitted to the court, which only added to the severity of the actions taken by the defendants.
11 Furthermore, the bank's use of mailings to continually inform Mr. Bass that everything was
12 normal while knowing the opposite to be accurate could be considered a new act of fraud. If not
13 a continuing action, it could still be argued that it is a new action, as it represents a form of
14 unjust enrichment. The Idaho Code provides that any gain that can be partly attributed to the
15 value perceived on having extra income when Mr. Bass was unknowingly responsible for the two
16 loans would constitute unjust enrichment. Thus, it is reasonable to argue that justice is best
17 served by allowing this case to go to trial, even if Mr. Bass has failed to satisfy the requirements
18 or authorities fully needed for tolling and the statute of limitations has already run.

19 Moreover, the defendants are currently attempting to sell the house, which would only
20 increase their unjust enrichment based on the fraud. This action is in process, leaving us with
21 two ways to label it: either an occurrence of the Continued Action being carried out or a new in-
22 process cause of action that seems to be an even more significant unjust enrichment. The
23 plaintiff is trying to show due diligence to minimize damages by addressing the matter as soon
24 as the plaintiff can. The plaintiff is here as a defense against a crime in action before the court.

1 The plaintiff has tried to meet every procedural need, even calling for a hold on the action until
2 the issues have been settled so as not to injure a new party by pushing the sale through and
3 introducing a buyer to the case. The trustee's sale is being used to push through without being
4 held to task on the grievances. It's an abuse of process to cover up the issues and fits the pattern
5 yet again where they use a part of the process to further a goal that unjustly enriches them
6 through misrepresentations; It's an in-process action that must not be allowed to continue. The
7 fact that the sale of the house depends on a lie is a serious legal issue that cannot be
8 overlooked.

9 Even if Mr. Bass cannot receive restoration and damages against injury which is, as the
10 plaintiff understands, it's only that to which is be being barred; the ability to received damages.
11 Just because a victim may be barred from seeking damages shouldn't allow the defendants to
12 block the victim from being vindicated by seeking justice via a ruling on the actions or let the
13 defendants stop the other aspects of the case that are individual points not covered under the
14 statute of limitations for the paperwork at the core of the case. We respectfully ask the court to
15 grant a waiver for any statute of limitations and any procedurally driven blocks that would prey
16 on the citizen's lack of knowledge when there was no chance to overcome those defects through
17 the ability to have years of study and practice for the legal trade; as long as the plaintiff is
18 showing signs of improvement work for the sake of justice and the rights to access of justice by
19 the typical person.

20
21
Dated this 26 day of April 2023.

Respectfully submitted,
Jeremy L. Bass
Plaintiff/ Pro Se

Signature

CERTIFICATE OF MAILING

I certify that I have sent by email and first-class mail this OPPOSITION TO DEFENDANT'S MOTION TO DISMISS AND STRIKE SUMMONS AND COMPLAINT to Defendants on April 26th, 2023, at the following email address and postal address:

Email: mnewell@idealawgroupllc.com
Postal: Michael J. Newell ISBA #1953
IDEA Law Group, LLC
4530 S. Eastern Ave., Ste. 10
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BOISE, ID 83702

Jeremy L. Bass
Plaintiff/Pro Se

Signature

ACKNOWLEDGMENT

STATE OF IDAHO)

: ss.

County of NEZ PERCE COUNTY)

On the _26_ day of __April__, 2023, before me, the undersigned Notary Public, personally appeared __Jeremy Bass__, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same.

IN WITNESS WHEREOF, I have set my hand and seal the day and year as above written.

Notary Public for Idaho

Residing at _____

Commission Expires: _____