

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DAVID L. GLASSEL,

Plaintiff,

v.

OCWEN LOAN SERVICING, LLC,

Defendant.

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Civil Action No. 4:17-cv-553

**INTERVENOR-PLAINTIFF DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE’S MOTION TO INTERVENE**

COMES NOW Intervenor-Plaintiff Deutsche Bank National Trust Company, as Trustee, in Trust for Registered Holders of Long Beach Mortgage Loan Trust 2006-7, Asset-Backed Certificates, Series 2006-7 (“Deutsche Bank”) and pursuant to Federal Rule of Civil Procedure 24 respectfully requests that the Court grant its Motion to Intervene and for its Original Petition to become part of the record of this cause, and in support respectfully shows the Court:

I. STATUS OF PLEADINGS

1. On February 6, 2017, David L. Glassel (“Glassel”) filed *Plaintiffs Original Petition* [sic] *to Quiet Title and Request for Temporary Restraining Order*, thereby opening cause number 17-02-01580 in the 244th Judicial District of Montgomery County, Texas. Glassel alleges that Defendant Ocwen Loan Servicing, LLC violated certain constitutional and statutory requirements in the origination of a loan on Glassel’s “residential and business homestead in Montgomery County with a legal description of: Lot Sixty-Four (64), and Lot Sixty Five (65) in Block Three (3) of Spring Forest Section One. . . .” Lots Sixty-Four and Sixty-Five, respectively known as 2123 Old Ox Road and 2119 Old Ox Road, are distinct properties subject to distinct loan agreements owned by distinct entities. Deutsche Bank is the holder and beneficiary of the

Note and Security Instrument related to 2119 Old Ox Road. Deutsche Bank is not currently a party to this cause. Deutsche Bank seeks to intervene in this cause and assert claims against Glassel to foreclose on 2119 Old Ox Road because of Glassel's default under the terms of the Note and Security Instrument.

II. ARGUMENT AND REQUEST FOR RELIEF

A. Intervention as a Matter of Right

2. Federal Rule of Civil Procedure 24(a) allows a movant who "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest," to intervene in the action as a matter of right. FED. R. CIV. P. 24(a). Deutsche Bank may intervene as of right under Rule 24 because Deutsche Bank has an interest in a property made subject to this action and Deutsche Bank's ability to protect that interest may be impeded by disposition of this action.

3. This case involves a dispute over loans taken out by Glassel and secured by the equity in two contiguous but distinct properties: 2119 Old Ox Road and 2123 Old Ox Road. On June 9, 2006, Glassel executed a Texas Home Equity Security Note for a \$204,000.00 loan that encumbered 2119 Old Ox Road. (Exhibits B & C.) The original lender on the Note was Long Beach Mortgage Company (Exhibits B & C.) The Note and Security Instrument were subsequently transferred to Deutsche Bank. (Exhibit D.) On August 22, 2006, Glassel executed a Deed of Trust with GreenPoint Mortgage Funding, Inc. as lender, securing a \$168,000.00 loan with an interest in 2123 Old Ox Road. (Exhibit E.)

4. Glassel's claim that the lenders committed a "loan stacking violation" by encumbering Glassel's property with multiple home equity loans rests on the disingenuous

presumption that 2123 Old Ox Road and 2119 Old Ox Road are one and the same property. *See Pl.'s Original Pet.* Glassel conflates 2119 Old Ox Road with 2123 Old Ox Road to assert that the loan agreements at issue were constitutionally and statutorily invalid, and that somehow the lenders owe Glassel money and are barred from foreclosing. *See Pl.'s Original Pet.* Therefore Deutsche Bank's interest in 2119 Old Ox Road directly relates to Glassel's claims in this action.

5. The current parties to this action do not adequately protect Deutsche Bank's interest in 2119 Old Ox Road. Glassel seeks a declaration that, despite Glassel's admitted default, Glassel owes no debt on the property or properties at issue and foreclosure is constitutionally barred. *See Pl.'s Original Pet.* Defendant Ocwen Loan Servicing, LLC, as the loan servicer, has an interest in 2123 Old Ox Road. Deutsche Bank seeks to protect its interest in 2119 Old Ox Road and to foreclose on that property. No current party to this action can protect Deutsche Bank's interest.

6. In its Original Complaint, Deutsche Bank seeks an order of foreclosure on the loan secured by 2119 Old Ox Road. (Exhibit A.) Deutsche Bank thus has a clear interest in the subject property that could be affected by a judgment in this cause. If Glassel prevails in his claims, Deutsche Bank, as the current holder and beneficiary of the loan agreement secured by 2119 Old Ox Road, may lose its interest in the property. Accordingly, Deutsche Bank seeks to intervene in this cause as a matter of right pursuant to Federal Rule of Civil Procedure 24(a).

B. Permissive Intervention

7. Alternatively and without waiving its foregoing argument, Deutsche Bank seeks to intervene in this cause with the Court's permission pursuant to Federal Rule of Civil Procedure Rule 24(b). That Rule provides that the Court may permit a party to intervene when that party "has a claim or defense that shares with the main action a common question of law or

fact.” FED. R. CIV. P. 24(b)(1)(B).

8. Deutsche Bank’s claims directly relate to the claims at issue in this cause. Deutsche Bank’s interest will be affected by a judgment in this cause because it is the holder of the Note and Security Instrument on 2119 Old Ox Road—that is, the Lot Sixty-Five that Glassel implies is united with Lot Sixty-Four (2123 Old Ox Road) as one “residential and business homestead.” *Pl.’s Original Pet.* at ¶ 5. (*See* Exhibit D.) There are common questions of law and fact in Deutsche Bank’s Original Complaint attached as Exhibit A and Glassel’s claims against the property or properties and the lenders who hold interests in those properties include . *See Pl.’s Original Pet.* Those questions of law include whether the liens on the property or properties are valid and whether the lenders have the right to foreclose.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Deutsche Bank respectfully requests that the Court grant its Motion to Intervene and grant that Deutsche Bank’s Complaint in Intervention, attached hereto as Exhibit A, become part of the official record of the above-numbered and styled cause, and grant Deutsche Bank any other relief, whether at law or in equity, to which it is justly entitled.

Respectfully submitted,

By: /s/ Mark D. Cronenwett

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**ATTORNEYS FOR INTERVENOR-
PLAINTIFF DEUTSCHE BANK
NATIONAL TRUST COMPANY, AS
TRUSTEE, IN TRUST FOR REGISTERED
HOLDERS OF LONG BEACH
MORTGAGE LOAN TRUST 2006-7,
ASSET-BACKED CERTIFICATES,
SERIES 2006-7'**

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with Plaintiff's counsel Larry A. Vick via email on April 11, 2017, and that Plaintiff opposes this Motion to Intervene.

/s/ Mark D. Cronenwett

MARK D. CRONENWETT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served via ECF Notification on this 13th day of April, 2017, upon the following:

Larry A. Vick
Attorney at Law
10497 Town & Country Way, Ste. 700
Houston, TX 77024
Attorney for Plaintiff

/s/ Mark D. Cronenwett
MARK D. CRONENWETT

Attached Exhibits:

- A. Intervenor's Original Complaint
- B. 2119 Note
- C. 2119 Security Instrument
- D. 2119 assignment(s)
- E. 2123 Deed of Trust