

Nick and Donna Nickerson
[REDACTED]

Defendants Pro Se
28 U.S.C. § 1654, MCA § 37-61-416

FILED

DEC 23 2021

ANGIE SPARKS, Clerk of District Court
BY ~~K~~ KRESGE Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR WELLS
FARGO ASSET SECURITIES
CORPORATION, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES 2007-7,
its successors in interest and/or assigns,

Plaintiff,

vs.

NICK NICKERSON and DONNA
NICKERSON,

Defendants

Cause No.: ADV-2013-253
Hon. Mike Menahan

**MOTION TO TAKE JUDICIAL
NOTICE OF LAW –
NICKERSON CASE**

COMES NOW, Nick and Donna Nickerson, husband and wife, in accordance with M.R.E. 202, and request this Court take judicial notice of the following laws that directly apply to the proper administration of justice in this dispute and that possess individual authority to guide and direct a just resolution: MCA § 1-3-208; MCA § 1-3-211; MCA § 1-3-222; MCA § 2-16-211(1); MCA § 25-9-205(2); MCA § 25-13-301; MCA § 25-13-822(2); Uniform District Court Rule 2(b),(c),(e); M.R.Civ.P. 5.2(a)(3); M.R.Civ.P. 7.1; M.R.Civ.P. 8(b)(6); M.R.Civ.P. 15(a)(2),(3),(b)(1); M.R.Civ.P. 17(a)(1); M.R.Civ.P. 38(a); M.R.Civ.P. 45; M.R.Civ.P. 56(e); MCA § 26-1-301; M.R.E. 102; M.R.E. 602; M.R.E. 803(6); M.R.E. 901(a); M.R.E. 902; M.R.E. 1002; MCA § 28-1-201; MCA § 28-1-211; MCA § 28-1-1301; MCA § 28-1-1302; MCA § 28-1-1304; MCA § 28-2-411; MCA § 28-2-701; MCA § 30-1-201(2)(v)(i); MCA § 30-3-304; MCA § 30-3-307; MCA § 30-14-103; MCA § 32-9-124(1)(b); MCA § 32-9-169(1),(2),(3); MCA § 32-9-170(1),(2),(3),(8); MCA § 35-5-201; MCA § 37-61-402; MCA § 37-61-406; MCA § 70-19-102; MCA § 71-1-224; Constitution of the State of Montana, Article II, Section 3, 4, 16, 17, and 26, and Article III, Section 1 and Section 3; Constitution of the United States, Article VI; Fifth,

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Seventh, and Fourteenth Amendments to the Constitution of the United States; 1st Judicial District Court Rule 5(E); EPTL § 7-2.4; 12 U.S.C. § 2605; 15 U.S.C. § 1641(g); 12 C.F.R. § 1024.35; 12 C.F.R. § 1024.36; and 12 C.F.R. § 1024.37. For the full text of these laws, see *Exhibit 1* and *Exhibit 2*.

Although it is not our intention or desire to move or submit to the jurisdiction of a prejudiced Court, citizens and patriots have long held the lawful privilege and duty to hold leaders accountable to the law.

“We will not make men justices, constables, sheriffs, or bailiffs, unless they are such as know the law of the realm, and are minded to observe it rightly.” *Magna Carta, 1215*

“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding...all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution;” *Constitution of the United States, Article VI (emphasis added)*

“It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the constitution, have that rank. Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.” *Marbury v. Madison*, 5 U.S. 137, 2 L. Ed. 60, 2 L. Ed. 2d 60 (1803)

““Citizens have a right under our constitutional system to criticize governmental officials and agencies. Courts are not, and should not be, immune to such criticism.’ *Konigsberg v. State Bar of California*, 353 U.S. 252, 269 (1957).” *Code of Professional Responsibility, 1970*

“Although courts have a number of internal checks, such as appellate review by multi-judge tribunals, professional and public monitoring is an essential feature of democratic control. Monitoring both provides judges with critical views of their work and deters arbitrary judicial behavior. Without monitoring, moreover, the public could have no confidence in the conscientiousness, reasonableness, or honesty of judicial proceedings...As the Third Circuit has noted: The public's exercise of its common law access right in civil cases promotes public confidence in the judicial system.... As with other branches of government, the bright light cast upon the judicial process by public observation diminishes the possibilities for injustice, incompetence, perjury, and fraud. Furthermore, the very openness of the process should provide the public with a more complete understanding of the judicial system and a better perception of its fairness. [citations omitted] (“These policies relate to the public's right to monitor the functioning of our courts, thereby insuring quality, honesty and respect for our legal system.”)” *US v. Amodeo*, 71 F.3d 1044 (2d Cir. 1995)

““Integrity is the very breath of justice. Confidence in our law, our courts, and in the administration of justice is our supreme interest. No practice must be permitted to prevail

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which invites towards the administration of justice a doubt or distrust of its integrity.’ *Erwin M. Jennings Co. v. DiGenova*, 107 Conn. 491, 499, 141 A. 866, 868 (1928).” *Code of Professional Responsibility, 1970*

The shocking, unrelenting indifference and rogue disregard for law and truth challenging our property rights tempts us to lay aside this moral, civic, and patriotic responsibility. However, our deep appreciation for the sacrifices made to secure the freedoms of this land, our sense of duty to ensure we have done all within our power and ability to preserve those freedoms for generations to come, and our sacred responsibility to protect our family name and heritage necessitate this action. Since establishing controlling law appears to be a proper legal procedure to request or compel the judiciary to act according to and within the confines of the very law it is empowered to uphold, we are herein exercising our rights and fulfilling any inherited duties to expose error, condemn manifest injustice, and summon the integrity of this judiciary to fairly apply governing law and accurately represent the facts of this case. This judicial notice presumes this judiciary is intent on using the power vested in it to do good and not harm the course of history or injure long-established property rights, religious freedoms, and due process in Montana.

Per M.R.E. 202(c), it was within this Court’s jurisdiction and power to take judicial notice and “inform itself of any law in such manner as it may deem proper” whether requested to take notice or not. However, since this Court has not exercised its jurisdiction in this matter and has conversely either willfully ignored and/or selectively applied these and other laws governing a fair and just outcome of this dispute, this request is now before the Court. Per M.R.E. 202(d), once judicial notice of law is requested, judicial notice is no longer discretionary, but mandatory.

M.R.E. 202 Judicial notice of law

(d) When mandatory. A court shall take judicial notice:

- (1) of the common law, constitutions and statutes of the United States and of this and every other state, territory and jurisdiction of the United States; and
- (2) of any other law when requested by a party and supplied with the necessary information.

Per M.R.E. 202(f)(1) this request is timely and proper.

M.R.E. 202 Judicial notice of law

(f) Time of taking notice.

- (1) Judicial notice of the laws of this state and of the United States may be taken at any stage of the proceedings.

Therefore, we request this Court take judicial notice of the above laws. Necessary information has been supplied with a brief statement of law, how each law applies, and how violations of this law have injured us in accordance with our understanding of how to move this Court to take judicial notice of law. We have been unjustly injured due to broken laws, breached contractual agreements, violated regulatory guidelines, and the State of Montana's failure to protect and preserve truth and justice during this malicious attack on our property rights and hateful persecution of our persons. By law and per the Constitution of the State of Montana, this Court possesses the right and sworn duty to correct and remedy these manifest injuries and appropriately wield the power and authority vested in it to do good, correct errors, enforce the law, protect inalienable rights, and secure liberty and justice for all.

Should this Court choose to deny the plain meaning of M.R.E. 202 and choose not to take judicial notice of these laws, please specify whether this denial is inclusive of all laws listed or list the specific laws noticed or denied.

This motion is supported by our *Brief in Support of Motion to Take Judicial Notice of Law – Nickerson Case*; *Affidavit of Nick Nickerson in Support of Motion to Take Judicial Notice of Law – Nickerson Case*; *Exhibit 1 – Laws That Save the Nickerson Family Ranch*; and *Exhibit 2 – New York Law – Estates, Powers, and Trusts*.

DATED this 23rd day of December, 2021



Nick Nickerson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22nd day of December, 2021, I caused to be served a true and correct copy of MOTION TO TAKE JUDICIAL NOTICE OF LAW – NICKERSON CASE to KENNETH LAY OF CROWLEY FLECK PLLP based on his personal and professional representations he is representing HSBC BANK, USA in this foreclosure and seizure of Montana real property. This service has been completed by the method indicated below to comply with procedural requirements of M.R.Civ.P. 5(a)(1)(D) and M.R.Civ.P. 5(b)(1). All objections and rights reserved.

Kenneth K. Lay
Crowley Fleck PLLP
900 North Last Chance Gulch, Suite 200
P.O. Box 797
Helena, MT 59601
Telephone 406-449-4165
Facsimile 406-449-5149
klay@crowleyfleck.com

- U.S. Mail
- Hand Delivered
- Overnight or Priority Mail
- Facsimile


Nick Nickerson