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1. [Ramsun v. Frenzel, 2012 U.S. Dist. LEXIS 191383](#)

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## Ramsum v. Frenzel

United States District Court for the Western District of Washington

November 27, 2012, Decided; November 27, 2012, Filed

CASE NO. C12-1152-RSM

### Reporter

2012 U.S. Dist. LEXIS 191383 \*

PAULA RAMSUM, Plaintiff, v. WALTER FRENZEL and JANE DOE FRENZEL, alleged to be husband and wife, and JPMORGAN CHASE BANK, N.A., Defendants.

**Subsequent History:** Affirmed by [Ramsum v. Frenzel, 606 Fed. Appx. 376, 2015 U.S. App. LEXIS 10118 \(9th Cir. Wash., 2015\)](#)

### Core Terms

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child support judgment, legal description, motion to dismiss, compliance

**Counsel:** [\*1] For Paula Ramsum, an unmarried person, Plaintiff: Andrea Janis Peterson, OLDFIELD & HELSDON PLLC, FIRCREST, WA; Catherine Cecily Clark, LAW OFFICE OF CATHERINE C CLARK, SEATTLE, WA; Timothy Glenn Krell, TIMOTHY G. KRELL REAL ESTATE LAW PLLC, BELLINGHAM, WA.

For JPMorgan Chase Bank National Association, successor to Washington Mutual Bank, Defendant: Fred B Burnside, LEAD ATTORNEY, Rebecca J. Francis, DAVIS WRIGHT TREMAINE (SEA), SEATTLE, WA.

**Judges:** RICARDO S. MARTINEZ, UNITED STATES DISTRICT JUDGE.

**Opinion by:** RICARDO S. MARTINEZ

### Opinion

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ORDER GRANTING DEFENDANT JP MORGAN CHASE BANK, N.A.'S MOTION TO DISMISS

### I. INTRODUCTION

Before the Court is Defendant JP Morgan Chase Bank, N.A.'s Motion to Dismiss under [Fed. R. Civ. Pro. 12\(b\)\(6\)](#). Dkt. # 13. Having thoroughly considered the parties' briefing and the

relevant record, the Court finds oral argument unnecessary. For the reasons set forth below, Defendant's motion is GRANTED.

### II. DISCUSSION

#### A. Background

Plaintiff filed a Complaint to Foreclose Lien in the Superior Court of the State of Washington in Whatcom County. Defendants removed the case to this Court pursuant to [28 U.S.C. § 1332](#). Plaintiff seeks to foreclose upon a lien that Plaintiff attempted to secure in 2006 against property owned by her former husband, [\*2] Mr. Ramsum, to satisfy a 2003 child support judgment from the California Superior Court. Plaintiff attempted to secure her lien by filing an Abstract of Judgment with a cover page in Whatcom County. Neither the cover page nor the Abstract of Judgment includes a description or identification of the property or tax parcel identification number to which her judgment was supposed to attach.

In 2007, Mr. Ramsum borrowed \$250,000 from Washington Mutual bank ("WaMu"), secured by the real property in Whatcom County (the same property that Plaintiff attempted to secure a lien against). Several months later in 2007, Mr. Ramsum sold the property to Norsky LLC. Chase acquired Mr. Ramsum's loan in 2008 when the FDIC placed WaMu in receiverships and sold many of its assets. Two months after Chase acquired the secured loan, Norsky LLC sold the property to defendants Walter and Jane Doe Frenzel. Plaintiff alleges that before Chase acquired the loan, Fidelity Title and Escrow contacted her about her recorded judgment and asked her for a payoff figure amount. Plaintiff further alleges that she provided a payoff amount, but Fidelity later told her that the escrow was cancelled.

According to Plaintiff, [\*3] the child support judgment debt is \$580,815, which is more than the assessed value of the Whatcom County property. Dkt. # 13, p. 2. Plaintiff asks the

Court to order a judicial foreclosure on the real property and seeks a judgment against Chase for \$814,399.61. *Id.* at 2-3. However, Defendant asks the Court to dismiss Plaintiff's claim and argues that Plaintiff's lien did not attach to the Whatcom property.

## B. Standard

In considering a [Rule 12\(b\)\(6\)](#) motion to dismiss, the Court must determine whether the plaintiff has alleged sufficient facts to state a claim for relief which is "plausible on its face." [Ashcroft v. Iqbal](#), 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009) (quoting [Bell Atlantic Corp. v. Twombly](#), 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007)). A claim is facially plausible if the plaintiff has pled "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing [Twombly](#), 550 U.S. at 556). In making this assessment, the Court accepts all facts alleged in the complaint as true, and makes all inferences in the light most favorable to the non-moving party. [Barker v. Riverside County Office of Educ.](#), 584 F.3d 821, 824 (9th Cir. 2009) (internal citations omitted). The Court is not, however, bound to accept the plaintiff's legal conclusions. [Iqbal](#), 556 U.S. at 678. While detailed factual allegations are not necessary, the plaintiff must provide more than "labels and conclusions" or a "formulaic recitation [\*4] of the elements of a cause of action." [Twombly](#), 550 U.S. at 555.

## C. Analysis

Defendant contends that Plaintiff's lien did not attach to the Whatcom County property when she filed her judgment in Washington because she failed to satisfy the requirements of [RCW 65.04.045](#) and [RCW 4.64.030](#). Plaintiff contends that Defendant's actual knowledge of her lien supersedes any issues with the form of her recorded judgment. The Court finds Plaintiff's argument without merit.

When ruling on a motion to dismiss, the Court may generally consider only allegations contained in the pleadings, exhibits attached to the complaint, and matters properly subject to judicial notice. [Outdoor Media Group, Inc. v. City of Beaumont](#), 506 F.3d 895, 899 (9th Cir. 2007). Attached to Plaintiff's Complaint is her recorded child support judgment from Whatcom County. Dkt. #1, p. 18. Therefore, the Court looked to the recorded judgment as well as the pleadings.

In Washington, unpaid child support debts become liens by operation of law against all property of the debtor with priority of a secured creditor. [RCW 26.18.055](#). Washington

also recognizes liens filed by other states or jurisdictions so long as certain procedural requirements are met. *Id.* ("Liens filed by other states or jurisdictions that comply with the procedural rules for filing liens under chapter 65.04 RCW shall be accorded [\*5] full faith and credit and are enforceable without judicial notice or hearing.") As part of the procedural requirements, the recorded lien must include a cover page that has an abbreviated legal description of the property. [RCW 65.04.045\(1\)\(f\)](#). An abbreviated legal description means lot, block, plat, or section, township, range, and quarter/quarter section. *Id.* The cover page should also include the assessor's property tax parcel or account number. [RCW 65.04.045\(1\)\(g\)](#).

Similarly, Washington has requirements for recording judgments. A judgment that provides for the award of any right, title, or interest in real property must include an abbreviated legal description of the property in which the right, title, or interest was awarded by the judgment, including lot, block, plat, or section, township, range, and, if applicable, property tax parcel or account number. [RCW 4.64.030\(2\)\(b\)](#). The clerk may not enter a judgment, and a judgment does not take effect, until the judgment has a summary that includes a description of the property. [RCW 4.64.030\(3\)](#). Additionally, the clerk is not liable for an incorrect summary. *Id.*

Plaintiff failed to include the required legal description or identify the Whatcom County property when she recorded her child support judgment in [\*6] Washington. Dkt. # 1, p. 18. The summary page states N/A under the abbreviated legal description. Therefore, Plaintiff did not record her judgment lien in accordance with Washington law.

Plaintiff's failure to properly record her judgment is more than a mere matter of form. Although Washington courts have held that strict compliance with legislatively mandated procedures is not always required, substantial compliance is required. [Kim v. Lee](#), 102 Wash. App. 586, 591-92, 9 P.3d 245 (2000), *rev'd on other grounds*, 145 Wn.2d 79, 31 P.3d 665 (2001). Substantial compliance requires "actual compliance in respect to the substance essential to every reasonable objective of [the] statute." *Id.* at 591 (quoting [City of Seattle v. Public Employment Relations Comm'n.](#), 116 Wash.2d 923, 928, 809 P.2d 1377 (1991)). The purpose of the first page summary, which includes a description of the property, is to facilitate lien and title searches. *Id.* at 592. By failing to describe or identify the Whatcom property as required by statute, Plaintiff failed to comply with an essential objective of the statute. Therefore, Plaintiff's recorded judgment is not substantially in compliance with Washington law, so it did not attach to the Whatcom property.

Plaintiff contends that her failure to properly record the

judgment is not determinative because Defendant had actual knowledge of Plaintiff's lien. However, Plaintiff [\*7] has not shown that Defendant's actual knowledge would negate the fact that her child support judgment never properly attached to the *Whatcom* property. The fact remains that she does not have an interest in the property because the lien never attached.

### III. CONCLUSION

The Court, having considered Defendant's motion, Plaintiff's response thereto, the reply, and the remainder of the record, hereby finds and ORDERS:

- (1) Defendants' Motion to Dismiss (Dkt. #13) is hereby GRANTED without prejudice.
- (2) The Clerk of the Court is directed to forward a copy of this Order to all counsel of record.

Dated November 27, 2012.

/s/ Ricardo S. Martinez

RICARDO S. MARTINEZ

UNITED STATES DISTRICT JUDGE

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