

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF PIMA

FEDERAL NATIONAL MORTGAGE, )  
Plaintiff, )  
vs. )  
MARSHALL HOME, )  
Defendant. )

C-2010 3852

Tucson, Arizona

July 6, 2010

BEFORE: THE HONORABLE STEPHEN C. VILLARREAL, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COURT TRIAL RE:

FORCIBLE ENTRY AND UNLAWFUL DETAINER

Robert G. Sipos, RDR  
Certified Court Reporter 50460  
Pima County, Arizona

A P P E A R A N C E S

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On Behalf of the Plaintiff:

THOMAS M. MURPHY  
Gust Rosenfeld PLC

On Behalf of the Defendant:

MARSHALL HOME  
In Proper Person

PROCEEDINGS

1  
2 THE COURT: This is the date and time set  
3 for the forceble entry trial. In the matter of  
4 Federal National Mortgage Association versus  
5 Marshall Home. C-2010 3852.

6 Please enter your appearance on the  
7 record.

8 MR. MURPHY: Your Honor, Thomas Murphy for  
9 the plaintiff.

10 THE COURT: Thank you. Good morning.

11 MR. MURPHY: Good morning.

12 THE COURT: And good morning, sir. Is  
13 your name Marshall Home?

14 MR. HOME: Yes. I'm Marshall Home and  
15 this is my wife Elizabeth.

16 THE COURT: Welcome. Good morning to you  
17 folks.

18 Mr. Home, you don't have an attorney; is  
19 that correct?

20 MR. HOME: That's correct.

21 THE COURT: You are representing yourself?

22 MR. HOME: Yes.

23 THE COURT: Okay. Thank you. The way we  
24 will proceed this morning, this is a forcible entry  
25 and detainer trial. At issue here is the right to

1 possession, not title. So we will not be inquiring  
2 into any issues concerning title, only possession.

3 I'll let Federal National Mortgage  
4 Association present their evidence first.

5 MR. HOME: Sir --

6 THE COURT: Hold on -- then after they  
7 present their evidence, then I'll allow you to  
8 cross-examine any witnesses they may call.

9 MR. HOME: Sir, I present --

10 THE COURT: Hold on -- then after they  
11 have rested, then I'll allow you to present any  
12 evidence that you would like to present and I will  
13 allow them to cross-examine you, and then -- is there  
14 anything want to ask me, Mr. Home?

15 MR. HOME: Yes. They lack standing to  
16 present anything. I've given that to you. It's in  
17 the document.

18 THE COURT: At issue here, Mr. Home, is  
19 not title, but only right to possession.

20 MR. HOME: But they have no standing to  
21 even be in this court. They're not registered with  
22 the Arizona Corporation Commission.

23 THE COURT: All right.

24 MR. HOME: That's against the law.

25 THE COURT: Thank you.

1                   MR. HOME: They're breaking the  
2 Constitution. They're breaking the -- what do you  
3 call it? The statutes, the Arizona statutes, which  
4 clearly says they have to be registered.

5                   THE COURT: All right. Thank you,  
6 Mr. Home.

7                   Mr. Murphy, do you want to respond to  
8 that?

9                   MR. MURPHY: Yes, Your Honor. There is in  
10 the Arizona Corporation statutes A.R.S.  
11 10-1501(B)(C) -- excuse me -- A.R.S. 10-1501(B) as a  
12 in boy, (7) and (8) give you exceptions, if you don't  
13 have to be registered to or certified as a corporation  
14 in Arizona to do business, and one is investing in  
15 property and investing in investments such as deeds of  
16 trust and mortgages on property, and (8) allows the  
17 exception if you do not have to be registered or a  
18 corporation or authorized to do business in Arizona on  
19 number 8 which is the foreclosure of a mortgage or a  
20 security on the property, and so -- the two  
21 exceptions, there's no reason for these entities to be  
22 registered or authorized to do business in Arizona  
23 under the statute.

24                   THE COURT: All right. Which entities are  
25 you referring to?

1 MR. MURPHY: I'm referring to the  
2 plaintiff, the Federal National Mortgage Association,  
3 which is a national -- a federal corporation.

4 THE COURT: Okay. Thank you, Mr. Murphy.

5 Mr. Home, do you want to respond to that?

6 MR. HOME: Yes. He has not given any  
7 reply to anything that I have entered into this court.  
8 There has been no reply from Mr. Murphy. I've not  
9 even seen a -- what do you call it? A notice of  
10 appearance for him to be allowed in this court. Has  
11 this Court given him permission to be here? To  
12 represent them? I have not received a copy of a  
13 notice of appearance. What's going on?

14 THE COURT: Why does he need a notice of  
15 appearance, Mr. Home? He is representing the  
16 plaintiff.

17 MR. HOME: Well, isn't that the form, the  
18 procedural form that everything goes to the Court and  
19 you have to notify that -- because what we have here,  
20 the original, sir, is from -- Tiffany & Bosco. May I  
21 give this to you? Tiffany & Bosco attorney. Not  
22 Thomas Murphy. Here, sir. Give that to the judge.

23 THE COURT: Go ahead.

24 MR. HOME: This is what the case is about.  
25 Where is Mr. Bosco?

1 THE COURT: Mr. Murphy.

2 MR. MURPHY: Your Honor, we've associated  
3 with Tiffany & Bosco in this case. If we didn't file  
4 something formal for it, we do have authority from the  
5 client and also from Tiffany & Bosco to represent the  
6 client in this particular matter. We've been doing it  
7 for --

8 THE COURT: Hold on, Mr. Home.

9 MR. MURPHY: We did it when the prior  
10 hearing was set in front of Judge Jones, we were also  
11 there. We're here today. We wouldn't be here if we  
12 weren't representing the plaintiff, and if we want  
13 something formal I can get it for you this afternoon.  
14 That's not a problem at all.

15 THE COURT: Why don't you file a formal  
16 notice of appearance?

17 MR. MURPHY: We'll take care of that, Your  
18 Honor. It will be in the file this morning or this  
19 afternoon, depending what time we get out of here.

20 THE COURT: Very good. Thank you.

21 Is there reason why we should not proceed  
22 with the trial at this point?

23 MR. HOME: Are you giving him the standing  
24 to proceed?

25 THE COURT: Yes. I'm indicating that he

1 has standing to proceed, Mr. Home.

2 MR. HOME: Okay. Then -- I'm not sure the  
3 phrase, I'm not lawyer, but I will appeal this. I do  
4 not think it is correct. Appeal it immediately, and I  
5 move for -- according to this -- what is this thing?  
6 Forcible detainer thing -- I read this thing and it  
7 says I'm entitled to a trial by jury.

8 THE COURT: That's what it says.

9 MR. HOME: Well, I'd like to have a trial  
10 by jury. I don't want him to say anything. Here,  
11 let's get the jury and let them decide, because I own  
12 this property. They don't own this property. I've  
13 got the rights on it.

14 THE COURT: Mr. Murphy, concerning the  
15 request for trial by jury.

16 MR. MURPHY: You know, I think he's late  
17 requesting at this point because this matter was  
18 set -- I believe we were in front of Judge Jones on  
19 June 2nd, and so he's had a month to request it. He  
20 hasn't requested a trial by jury, and there's a  
21 process how you do that within the court. We're  
22 objecting to that. We want this to go forward.

23 THE COURT: Well, isn't there a right to  
24 trial by jury?

25 MR. MURPHY: There is a right to trial by



1 jury and there's also a process of how you ask for it,  
2 Your Honor.

3 THE COURT: Well, what's the law say about  
4 timing on that, Mr. Murphy?

5 MR. MURPHY: What does the law say? You  
6 have to request it in a timely manner, I believe, Your  
7 Honor, and I can't quote the jury request in my mind.  
8 I know we do it each time when we get a case and ask  
9 for a jury. If you want a jury trial, there's a  
10 timing matter where you put in there and ask for it,  
11 but I don't have the exact number of days you have to  
12 do it. I'm guessing -- I'm not going to guess, Your  
13 Honor. It's not fair. I would be guessing on it.

14 THE COURT: Well, forcible entry detainer  
15 is --

16 MR. MURPHY: It's short. It's a --

17 THE COURT: Hold on. It's a statutory  
18 animal. Shortened procedures apply. Can you cite me  
19 any authority that stands for the proposition they  
20 don't have the right to have a trial, jury trial?

21 MR. MURPHY: No, I can't. They do have a  
22 right to have a jury trial, but the trial has to be  
23 within 10 days and it's gone beyond that with sending  
24 it up in front of you, and he's just trying to use  
25 this to stall, and he hasn't filed anything that says

1 he wanted a jury trial, and I think the procedures --  
2 the Arizona Rules of Civil Procedure require him to do  
3 that and he hasn't done it.

4 MR. HOME: I believe Mr. Murphy is talking  
5 about A.R.S. 12-1177 and (C) states: For good cause  
6 shown, supported by affidavit, the trial may be  
7 postponed -- the trial may be postponed -- for a time  
8 not to exceed three calendar days in a justice court  
9 or 10 calendar days in a superior court.

10 This trial has been postponed for more  
11 than 30 days. I asked for this entire procedure to be  
12 dismissed because it violates the procedure that he's  
13 talking about. He brought it up, the timing. So I'd  
14 like this to be dismissed and the finding against  
15 me by this Court not guilty, because latches has  
16 occurred. Time has gone by. He brought it up. Go  
17 ahead. It's your baby.

18 THE COURT: Your motion to dismiss is  
19 denied.

20 MR. HOME: Okay.

21 THE COURT: Your request for a jury trial  
22 is hereby denied as being untimely.

23 MR. HOME: You are denying me a jury  
24 trial?

25 THE COURT: Yes, sir.

1 MR. HOME: I have papers here. I'm  
2 entitled to have a jury trial.

3 THE COURT: You didn't request a trial  
4 until right now.

5 MR. HOME: I don't have this to.

6 THE COURT: Show me --

7 MR. HOME: I can --

8 THE COURT: Excuse me, Mr. Home. Excuse  
9 me. What authority do you have that says I have to  
10 give you a jury trial now?

11 MR. HOME: Give me a moment.

12 THE COURT: Okay.

13 MR. HOME: 12-1176. Demand for a jury.  
14 If the plaintiff does not request a jury, the  
15 defendant may do so when he appears, and the jury  
16 shall be summoned in the manner set forth in  
17 subsection (A). It says so plainly. I have appeared.  
18 I'm requesting a jury trial.

19 THE COURT: Well, Mr. Murphy, does  
20 "appear" mean appear --

21 MR. HOME: If the plaintiff does not --

22 THE COURT: Excuse me, Mr. Home.  
23 Mr. Home.

24 MR. HOME: Yes, sir.

25 THE COURT: Hold on just a second, sir.

1 I'm addressing Mr. Murphy, all right? I'll give you  
2 an opportunity in a moment. Thank you, sir.

3 Mr. Murphy.

4 MR. MURPHY: Your Honor, "appear" means --  
5 in that particular statute means when you appear in  
6 the case, you make an answer in the case, is what it  
7 means. It doesn't mean when you appear on the day of  
8 trial. Appearance means you're in the case, and he  
9 has filed things in the case before the June 2nd  
10 hearing that was set in front of Judge Jones, so his  
11 appearance is -- and I don't have that exact date, but  
12 it's late May early June, is what it is.

13 THE COURT: Was an answer filed in this  
14 matter, Mr. Murphy?

15 MR. MURPHY: Your Honor, he's filed a lot  
16 of papers. I'm not -- he probably has denied in there  
17 that we have the right to move forward, so I think the  
18 Court would probably construe it as an answer. I have  
19 a hard time saying it's an answer because there's a  
20 whole lot of stuff he filed, and so -- but he's in  
21 there, denies what we're asking for. So I will  
22 concede that.

23 THE COURT: All right. I'm going to take  
24 a short recess to consider your request, Mr. Home,  
25 then I'll come back out on the bench.

1                   Mr. Murphy, is -- Fannie Mae is not  
2 related in any way to Bank of America, are they?

3                   MR. MURPHY: To my knowledge, no, Your  
4 Honor. They may do business with Bank of America, but  
5 I can't -- I don't think their related at all.  
6 They're a -- a congressional corporation that now has  
7 public ownership, is what it is. Started in 1938 and  
8 I do not think it's involved. It's part of Bank of  
9 America, I've never known that.

10                  MR. HOME: They are both involved in  
11 fraud, the State of Utah has issued an injunction  
12 against both of them. Throughout the entire state  
13 they cannot do business.

14                  THE COURT: Against who, Mr. Home?

15                  MR. HOME: Against Bank of America, and  
16 who else did you mention? Federal National Mortgage  
17 Association.

18                  THE COURT: Well...

19                  MR. HOME: I've the documentation over  
20 here, if you wish.

21                  THE COURT: Is Bank of America involved in  
22 this matter?

23                  MR. HOME: Yes.

24                  THE COURT: How are they involved?

25                  MR. HOME: They're involved in the fraud

1 against me. There's the injunction -- by the way,  
2 after this we're going to file for an injunction in a  
3 civil suit, which I hope comes in your court because  
4 you are familiar with the fraud. That's the entire  
5 State of Utah that they cannot do business in, and  
6 you're giving them standing.

7 THE COURT: Thank you, Mr. Home.

8 Mr. Murphy, there's a conflict of interest  
9 with my proceeding in this matter that relates in any  
10 way to Bank of America, so for that reason I'm going  
11 to recuse myself.

12 MR. MURPHY: All right.

13 THE COURT: This matter will be  
14 reassigned.

15 MR. MURPHY: That's fine.

16 THE COURT: Thank you. You'll receive  
17 notice of -- the next setting in due course.

18 MR. HOME: But I like you.

19 THE COURT: Well, thank you, but if  
20 there's any -- if Bank of America or a Bank of America  
21 entity is involved in any way there's a conflict of  
22 interest for me, so I can't proceed any further.

23 MR. MURPHY: I like you too, Your Honor.

24 THE COURT: I like you guys too. I  
25 appreciate that, but you both will receive notice of

1 the new judge assigned to this matter. The new judge  
2 will set the matter for a trial.

3 I will note that Mr. Home is requesting a  
4 jury trial.

5 What you should do, Mr. Home, is file a  
6 written request for a jury trial. That's what I would  
7 suggest you do. So we're at recess at this point.  
8 Thank you.

9 MR. MURPHY: Thank you, Your Honor.  
10 (Whereupon, the Court recesses.)

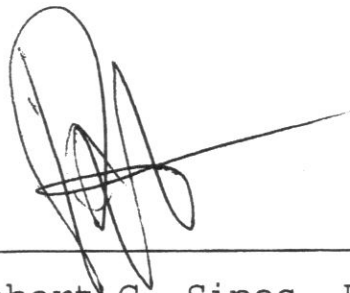
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REPORTER'S CERTIFICATE

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STATE OF ARIZONA)  
                                  :   SS  
COUNTY OF PIMA    )

I, Robert G. Sipos, do hereby certify that as an Official Court Reporter of Pima County, Arizona, I was present at the hearing of the foregoing entitled case; that while there I took down in shorthand all the oral testimony adduced and the proceedings had; that I have transcribed such shorthand into typewriting, and that the foregoing typewritten matter contains a full, true and correct transcript of my shorthand notes so taken by me as aforesaid.

  
\_\_\_\_\_  
Robert G. Sipos, RDR  
Certified Court Reporter  
Certificate 50460





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November 10, 2009

**Via Certified Mail, Regular Mail and Hand-Delivered**

**Marshall Home**

AND/OR OCCUPANTS

3051 West Mexico Street

Tucson, AZ 85746

RE: Federal National Mortgage Association vs. Home  
Loan No.: D090VXJ  
Our File No.: 09-27801  
REMOVAL OF PERSONAL PROPERTY

Dear Marshall Home:

This firm represents Federal National Mortgage Association, the owner and holder of the subject real property commonly known as 3051 West Mexico Street, Tucson, AZ 85746 ("the Real Property"). Federal National Mortgage Association, obtained this property pursuant to a Trustee's Deed Upon Sale following a Foreclosure that occurred on or about October 23, 2009.

Federal National Mortgage Association, has secured the Real Property. At the time of the securing of the Real Property, it was learned that personal property was left by you on the premises. The personal property services as a nuisance, and interferes with Federal National Mortgage Association's right to the enjoyment of the premises.

Should you wish to reclaim your personal property, you are instructed to contact our agent, Terry Wintz at 520-284-2780. Should you fail to make arrangements for the retrieval of the personal property, thirty (30) days from the date of this letter, the personal property will be considered abandoned and will be disposed of accordingly. You will receive no further communication regarding the personal property.

Very truly yours,

TIFFANY & BOSCO, P.A.

Mark S. Bosco

MSB/VXR