UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Tracy Lee Hurst-Castl v. Sables, LLC

No. 2:25-cv-00752-APG-NJK (D. Nev. Dec. 2, 2025) · No. 2:25-cv-00752-APG-NJK · Decided December 2, 2025

SUMMARY

The United States District Court for the District of Nevada granted Sables, LLC's motion to dismiss Tracy Lee Hurst-Castl's complaint challenging the foreclosure of her rental property. The court held that the wrongful-foreclosure and related statutory claims, as well as claims for quiet title, declaratory relief, slander of title, emotional distress, abuse of process, unjust enrichment, fraud, constructive fraud, and civil conspiracy, were legally deficient or barred by res judicata. The complaint was dismissed with prejudice, and judgment was ordered in favor of Sables.

CASE DETAILS

COURT	United States District Court for the District of Nevada
WRITING FOR THE COURT	Andrew P. Gordon
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 2, 2025
DOCKET	2:25-cv-00752-APG-NJK
DISPOSITION	dismissed
PROCEDURAL POSTURE	Sables, LLC removed the plaintiff's Nevada state-court action to federal court and moved to dismiss under Federal Rule of Civil Procedure 12(b)(6). The district court granted the motion, dismissed all twelve causes of action with prejudice, denied the plaintiff's pending motions as moot, ordered judgment for Sables, and directed the clerk to close the case.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and construes them in the light most favorable to the nonmoving party, but disregards legal conclusions and requires factual allegations sufficient to state a plausible entitlement to relief. Fraud-based claims are additionally subject to Rule 9(b)'s particularity requirement.
PRECEDENTIAL VALUE	unpublished
PARTIES	Tracy Lee Hurst-Castl v. Sables, LLC

TOPICS

motions to dismiss · wrongful foreclosure · foreclosure · res judicata · civil procedure

PRACTICE AREAS

civil procedure · real estate · foreclosure · torts · bankruptcy

QUESTIONS PRESENTED

1. Whether the complaint plausibly alleged that Sables violated Nevada foreclosure-notice statutes.
2. Whether the foreclosure was improper because it occurred during the plaintiff's bankruptcy appeal without a stay.
3. Whether the plaintiff could maintain quiet-title, declaratory-relief, and slander-of-title claims based on the validity of the deed of trust and the creditor's interest.
4. Whether the plaintiff plausibly pleaded intentional infliction of emotional distress.
5. Whether a nonjudicial foreclosure sale can support an abuse-of-process claim.
6. Whether the plaintiff plausibly pleaded unjust enrichment despite express loan documents and the absence of a benefit conferred on Sables.
7. Whether the fraud, constructive-fraud, and civil-conspiracy claims satisfied Rule 9(b) and were barred by claim preclusion.

HOLDINGS

1. The complaint could not state a wrongful-foreclosure or statutory-violation claim because NRS §§ 107.080 and 107.082 do not impose the asserted ninety-day re-notice requirement, and NRS § 107.550(1)(c) does not apply to rental properties.
2. The foreclosure was not improper merely because the plaintiff had appealed the bankruptcy court's order; absent a stay pending appeal, the order remained enforceable.
3. The plaintiff could not maintain that claim against Sables because she alleged that the Clark County Recorder, not Sables, rejected her attempt to record a lis pendens.
4. The claims were barred by res judicata because the plaintiff's allegations concerning the enforceability of the deed of trust and LTCP's interest were identical to claims litigated in prior actions, those actions resulted in final judgments on the merits, and Sables was in privity with prior defendants.
5. The intentional-infliction-of-emotional-distress claim failed because the alleged foreclosure conduct was not extreme and outrageous, and amendment could not cure the defect.
6. A nonjudicial foreclosure sale cannot be the basis of an abuse-of-process claim because it occurs outside the court's legal process.
7. The unjust-enrichment claim failed because the plaintiff did not plausibly allege that she conferred a benefit on Sables, and an unjust-enrichment theory was unavailable in light of the express loan documents and deed of trust.

8. The fraud-based claims failed because the complaint did not plead the circumstances of the alleged fraud with particularity and, independently, the claims were barred by res judicata.

KEY QUOTATIONS

> *"I grant the motion to dismiss because Hurst-Castl cannot maintain any of her 12 causes of action."* (at 1)

> *"A non-judicial foreclosure . . . is not the characteristic legal action contemplated by an abuse of process claim."* (at 8)

> *"An action based on a theory of unjust enrichment is not available when there is an express, written contract, because no agreement can be implied when there is an express agreement."* (at 9)

FACTUAL BACKGROUND

The plaintiff had not made a mortgage payment since June 2008 and had pursued multiple state-court lawsuits, bankruptcy proceedings, bankruptcy appeals, and a prior federal lawsuit concerning foreclosure of her rental property. The property was sold at a nonjudicial foreclosure sale on April 4, 2025. The plaintiff alleged that the sale was wrongful because it was not re-noticed after ninety days, occurred while she appealed a bankruptcy order, involved denial of a lis pendens filing, and rested on an invalid deed of trust or creditor interest.

PROCEDURAL HISTORY

The plaintiff filed suit in Nevada state court challenging the foreclosure of her rental property. Sables removed the case to the District of Nevada, and the court denied the plaintiff's prior motion to remand. The court granted Sables's Rule 12(b)(6) motion, concluding that none of the twelve causes of action could be maintained and that the defects were incurable by amendment.

DISPOSITION

dismissed

CASES CITED

- Kwan v. SanMedica Int'l, 854 F.3d 1088, 1096 (9th Cir. 2017)
- Navajo Nation v. Dep't of the Interior, 876 F.3d 1144, 1163 (9th Cir. 2017)
- Adams v. Johnson, 355 F.3d 1179, 1183 (9th Cir. 2004)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-56, 570 (2007)
- Hughes v. Rowe, 449 U.S. 5, 9 (1980)
- Tiedemann v. Von Blackensee, 72 F.4th 1001, 1007 (9th Cir. 2023)
- Agio, LLC v. Quality Loan Serv. Corp., No. 78610, 472 P.3d 186, 2020 WL 5634152, at *1 (Nev. Sept. 18, 2020)
- Dayco Funding Corp. v. Norman, No. 81971, 509 P.3d 607, 2022 WL 1683504, at *3 (Nev. 2022)
- Hernandez v. IndyMac Bank, No. 2:12-cv-00369-MMD-CWH, 2014 WL 12644259, at *3 n.6 (D. Nev. Sept. 19, 2014)

- In re Pappas, 215 B.R. 646, 650 n.5 (B.A.P. 2d Cir. 1998)
- Stewart v. U.S. Bancorp, 297 F.3d 953, 956 (9th Cir. 2002)
- United States v. Arpaio, 951 F.3d 1001, 1007 (9th Cir. 2020)
- D’Haenens v. Fed. Nat’l Mortg. Ass’n, No. 2:11-cv-01432-GMN-GWF, 2012 WL 2000691, at *3 (D. Nev. June 5, 2012)
- Derrico v. PennyMac Corp., No. 2:15-cv-01165-APG-NJK, 2018 WL 472998, at *3 (D. Nev. Jan. 17, 2018)
- Star v. Rabello, 625 P.2d 90, 92 (Nev. 1981)
- Maduike v. Agency Rent-A-Car, 953 P.2d 24, 26 (Nev. 1998)
- Las Vegas Fetish & Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc., 182 P.3d 764, 767 (Nev. 2008)
- Barlow v. BNC Mortg., Inc., No. 3:11-cv-0304-LRH-VPC, 2011 WL 4402955, at *4 (D. Nev. Sept. 21, 2011)
- Riley v. Greenpoint Mortg. Funding, Inc., No. 2:10-cv-1873-RLH-RJJ, 2011 WL 1979831, at *5 (D. Nev. May 20, 2011)
- UnitedHealthCare Ins. Co. v. Fremont Emergency Servs. (Mandavia), Ltd., 570 P.3d 107, 121 (Nev. 2025) (en banc)
- Leasepartners Corp. v. Robert L. Brooks Tr. Dated Nov. 12, 1975, 942 P.2d 182, 187 (Nev. 1997)
- Anderson v. Deutsche Bank Nat’l Tr. Co., No. 2:10-cv-1443-JCM-PAL, 2010 WL 4386958, at *4 (D. Nev. Oct. 29, 2010)
- Vess v. Ciba-Geigy Corp. USA, 317 F.3d 1097, 1106 (9th Cir. 2003)
- Arroyo v. Wheat, 591 F. Supp. 136, 139 (D. Nev. 1984)