

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Osburn v. Deutsche Bank Trust Company

No. 1:24-CV-01002-KES-SKO (E.D. Cal. June 25, 2025) · No. 1:24-CV-01002-KES-SKO · Decided June 25, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Deutsche Bank’s motion to dismiss Ronald Osburn’s action challenging a foreclosure sale. The court held that the claims were barred by res judicata based on a prior unlawful detainer judgment and that 18 U.S.C. § 1001 provides no private right of action. The court dismissed the complaint with prejudice, denied the motions to set aside the sale and consolidate as moot, denied leave to amend, and closed the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Kirk E. Sherriff
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 25, 2025
DOCKET	1:24-CV-01002-KES-SKO
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a federal action challenging a prior foreclosure sale and asserting negligence and an alleged violation of 18 U.S.C. § 1001. Defendant moved to dismiss under Federal Rule of Civil Procedure 12(b)(6), and plaintiff separately moved to set aside the sale, consolidate an unlawful detainer action, and amend the complaint.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the complaint, accepts well-pleaded factual allegations as true, construes them in the plaintiff’s favor, and does not accept legal conclusions as factual allegations. Claim preclusion may be resolved on a Rule 12(b)(6) motion when the relevant facts are established by judicially noticeable court records.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Ronald Osburn v. Deutsche Bank Trust Company

TOPICS

res judicata

motions to dismiss

motion to amend

foreclosure

civil procedure

PRACTICE AREAS

civil procedure

real estate

foreclosure

bankruptcy

remedies

QUESTIONS PRESENTED

1. Whether plaintiff's challenges to the foreclosure process and trustee's sale were barred by claim preclusion based on the prior unlawful detainer judgment.
2. Whether plaintiff could maintain a private civil claim under 18 U.S.C. § 1001.
3. Whether plaintiff should be granted leave to amend to assert that the foreclosure violated a bankruptcy discharge order.
4. Whether plaintiff's motions to set aside the sale and consolidate the action should remain pending after dismissal.

HOLDINGS

1. California claim-preclusion law barred plaintiff's claims challenging the foreclosure proceedings and trustee's sale because the prior unlawful detainer judgment involved the same primary right, was a final judgment on the merits, and involved the same parties.
2. Plaintiff could not state a civil claim under 18 U.S.C. § 1001 because the statute is criminal and does not create a private right of action.
3. Leave to amend was denied because the proposed bankruptcy-discharge theory was another collateral challenge to the foreclosure proceedings and was barred by claim preclusion.

KEY QUOTATIONS

"In these situations, courts consistently have held that later-filed actions brought by parties challenging the irregularities of foreclosure proceedings and a trustee's sale cannot relitigate those issues following the entry of judgment against them in an unlawful detainer action." (at 6)

"As all three elements are satisfied as to the unlawful detainer action, res judicata bars plaintiff's claims regarding the foreclosure proceedings and trustee's sale." (at 8)

"As a private citizen, plaintiff has no authority to bring claims under a federal criminal statute." (at 9)

FACTUAL BACKGROUND

Plaintiff's home was encumbered by a deed of trust securing a loan, and Deutsche Bank was later assigned the deed of trust. The property was sold at a trustee's sale on December 28, 2021, and the trustee's deed upon sale was recorded on February 25, 2022. Deutsche Bank obtained a default judgment and writ of possession in a Tulare County unlawful detainer action. Plaintiff then filed this federal action, alleging that the foreclosure sale

was not properly published or recorded, was falsified, and violated 18 U.S.C. § 1001, while seeking damages and expungement of the trustee's deed.

PROCEDURAL HISTORY

The court took judicial notice of prior federal and state litigation concerning the same property and foreclosure. A Tulare County Superior Court entered default judgment for Deutsche Bank in an unlawful detainer action and issued a writ of possession. The district court granted defendant's motion to dismiss with prejudice on claim-preclusion and failure-to-state-a-claim grounds, denied plaintiff's motion for leave to amend, denied the motions to set aside the sale and consolidate as moot, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746 n.6 (9th Cir. 2006)
- Osburn v. Onewest Bank, No. 1:18-cv-00310-LJO-SAB, 2018 WL 3629926 (E.D. Cal. July 27, 2018)
- Osburn v. Onewest Bank, 2018 WL 3769412 (E.D. Cal. Aug. 7, 2018)
- Osburn v. Countrywide Home Loans, No. 1:19-cv-00246-DAD-SAB, 2020 WL 616306 (E.D. Cal. Feb. 10, 2020)
- Osburn v. Countrywide Home Loans, 854 Fed. App'x 225 (9th Cir. July 26, 2021)
- N. Star Int'l v. Ariz. Corp. Comm'n, 720 F.2d 578, 581 (9th Cir. 1983)
- Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990)
- Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)
- Ashcroft v. Iqbal, 556 U.S. 662, 678, 680 (2009)
- Neitzke v. Williams, 490 U.S. 319, 328 (1989)
- Headwaters Inc. v. U.S. Forest Serv., 399 F.3d 1047, 1054 (9th Cir. 2005)
- Day v. Moscow, 955 F.2d 807, 811 (2d Cir. 1992)
- Scott v. Kuhlmann, 746 F.2d 1377, 1378 (9th Cir. 1984)
- Kremer v. Chemical Construction Corp., 456 U.S. 461, 482 (1982)
- Lopez Reyes v. Kenosian & Miele, LLP, 619 F. Supp. 2d 796, 809 (N.D. Cal. 2008)
- Nathanson v. Hecker, 99 Cal. App. 4th 1158, 1162 (2002)
- Vella v. Hudgins, 20 Cal. 3d 251, 255-57 (1977)
- Robi v. Five Platters, Inc., 838 F.2d 318, 324 (9th Cir. 1988)
- Slater v. Blackwood, 15 Cal. 3d 791, 795 (1975)
- Howitzon v. Evans Hotels, LLC, 81 Cal. App. 5th 475, 487 (2022)
- Zimmerman v. Stotter, 160 Cal. App. 3d 1067 (1984)
- Barefield v. HSBC Mortg. Servs., Inc., No. 1:21-cv-0613 JLT CDB, 2023 WL 2529638, at *6, *14-*15 (E.D. Cal. Mar. 15, 2023)

- Albano v. Nw. Fin. Haw., Inc., 244 F.3d 1061, 1064 (9th Cir. 2001)
- U.S. ex rel. Hyatt v. Mirza, 2018 WL 6653319, at *4 n.5 (E.D. Cal. Dec. 19, 2018)
- In re Anthony H., 129 Cal. App. 4th 495, 503 (2005)
- Allen v. Gold Country Casino, 464 F.3d 1044, 1048 (9th Cir. 2006)
- Dowdell v. Sacramento Hous. & Redevelopment Agency, No. 2:11-cv-00409 JAM KJN PS, 2011 WL 837046, at *2 (E.D. Cal. Mar. 8, 2011)
- Sareen v. Sareen, No. CIV S-08-0176 LKK EFB PS, 2008 WL 11450612, at *4 (E.D. Cal. Aug. 28, 2008)
- In re Blendheim, 803 F.3d 477, 493 (9th Cir. 2015)
- Johnson v. Home State Bank, 501 U.S. 78, 84 (1991)

OPINION

Osburn v. Deutsche Bank National Trust Company

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11

RONALD OSBURN, No. 1:24-CV-01002-KES-SKO

12

ORDER GRANTING DEFENDANT’S

13 Plaintiff, MOTION TO DISMISS, DENYING

PLAINTIFF’S MOTIONS TO SET ASIDE

14 SALE AND CONSOLIDATE AS MOOT,

v. AND DENYING PLAINTIFF’S MOTION

15 FOR LEAVE TO FILE FIRST AMENDED

COMPLAINT

16 DEUTSCHE BANK TRUST COMPANY,

Docs. 6, 15, 26, 28 17 Defendant. 18 19 20 Plaintiff Ronald Osburn (“plaintiff”) filed this action on August 23, 2024, challenging the 21 prior sale of his home at a foreclosure sale. Doc. 1 (“Compl.”). On September 16, 2024, 22 defendant Deutsche Bank Trust Company (“defendant”) filed a motion to dismiss, along with a 23 request for judicial notice. Docs. 6 (“MTD”), 7 (“RJN”). The motion is fully briefed. Docs. 9 24 (“Opp’n”); 11 (“Reply”). Plaintiff subsequently filed a motion to “set aside sale” on October 25, 25 2024, which is now fully briefed. Docs. 15, 19, 21.1 On April 29, 2025, plaintiff filed a “motion 26 27 1 On February 11, 2025, plaintiff also filed a “supplement” to his reply in support of the motion to set aside sale. Doc. 24. This Court’s standing order provides that supplemental briefs and sur- 28 replies shall not be filed without prior leave of court. As plaintiff did not seek leave of court, this 1 to consolidate removed unlawful detainer action.” Doc. 26. On May 27, 2025, plaintiff filed a 2 motion for leave to file a first amended

complaint, to which Deutsche Bank filed an opposition.

3 Docs. 28, 33. For the reasons discussed below, defendant's motion to dismiss is granted with
4 prejudice, plaintiff's motions to set aside sale and to consolidate are denied as moot, and 5
plaintiff's motion for leave to file a first amended complaint is denied.

6 I. BACKGROUND

7 A. Prior Litigation 8 Plaintiff has filed three previous lawsuits, in federal and state court,
challenging the 9 foreclosure sale of his home.² *Osburn v. Onewest Bank* ("Osburn I"), No. 1:18-
cv-00310-LJO- 10 SAB, 2018 WL 3629926 (E.D. Cal. Jul. 27, 2018); *Osburn v. Countrywide*
Home Loans 11 ("Osburn II"), No. 1:19-cv-00246-DAD-SAB, 2020 WL 616306 (E.D. Cal. Feb.
10, 2020); and 12 *Osburn v. Deutsche Bank Nat'l Trust Co.* ("Osburn III"), Superior Court of
Tulare County,

13 No. 289965. Deutsche Bank also sued plaintiff and his wife in an unlawful detainer action in
14 Tulare County Superior Court, *Deutsche Bank v. Osburn, et al.* ("Unlawful Detainer Action"),
15 Case No. VCL203611. 16 1. *Osburn I* 17 In *Osburn I*, on March 3, 2018, plaintiff and his wife,
represented by counsel, sued 18 Deutsche Bank, among others, alleging fraud, wrongful
foreclosure, quiet title, "cancellation of 19 instruments," violation of the Real Estate Settlement
Procedures Act (12 U.S.C. § 2605), 20 negligent misrepresentation, breach of contract, violation
of the Truth in Lending Act (15 U.S.C. 21 § 1638), and unfair business practices. RJN, Ex. 6 at 2.
The district court adopted findings and 22 23 supplemental filing is disregarded. 24 2 The Court
grants defendant's request for judicial notice (Doc. 7), taking judicial notice of court 25 filings and
publicly filed documents. Fed. R. Evid. 201; *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d
741, 746 n.6 (9th Cir. 2006). Two of the exhibits provided in defendant's request 26 for judicial
notice are unreadable, specifically, Exhibit 8 (findings and recommendations 27 recommending
granting defendants' motion to dismiss and granting in part plaintiffs' motion to amend in *Osburn*
I) and Exhibit 13 (Ninth Circuit memorandum decision affirming the district 28 court's disposition
of *Osburn II*). The Court cites to the Westlaw citations for these orders. 1 recommendations and
granted defendants' motion to dismiss and granted in part plaintiffs' 2 motion to amend their
complaint. *Osburn I*, 2018 WL 3629926, at *1. In granting the motion to 3 dismiss, the court
reasoned that plaintiffs lacked standing to challenge pre-foreclosure causes of 4 action—fraud,
wrongful foreclosure, quiet title, cancellation of instruments, negligent 5 misrepresentation, and
unfair business practices—and that leave to amend these claims would be 6 futile. *Id.* However,
the court granted leave to amend the breach of contract and the Truth in 7 Lending Act claims. *Id.*
Thereafter, the Osburns failed to file an amended complaint and the case 8 was dismissed. *Osburn*
v. Onewest Bank, 2018 WL 3769412, at *1 (E.D. Cal. Aug. 7, 2018). 9 2. *Osburn II* 10 In *Osburn*
II, on February 21, 2019, the Osburns again sued Deutsche Bank along with 11 several other
defendants, alleging fraud, rescission, intentional infliction of emotional distress, 12 and other
claims relating to the underlying foreclosure. RJN, Ex. 9; *Osburn II*, Doc. 1. The court 13 granted
defendants' motions to dismiss, finding the action barred under the doctrine of claim 14 preclusion

because (1) the earlier action resulted in a final judgment on the merits, (2) there was an identity of claims between the two actions, and (3) there was privity between the parties. RJN, 16 Ex. 11; Osburn II, 2020 WL 616306, at *3. The court reasoned that the two actions arose out of the “same transactional nucleus of facts,” as the allegations in both complaints centered on defendants’ purported lack of legal right to foreclose upon the subject property. Osburn II, 2020 WL 616306, at *4. The court also reasoned that new claims brought in the second action were barred because they could have been brought in the earlier action. *Id.* Finally, the court found that the parties were in privity because the plaintiffs were the same and several of the defendants were the same between the two actions. *Id.* at *5–6. As to the remaining “new” defendants in the later-filed action, the court found their interests to be so closely aligned with the other defendants as to be in privity with them. *Id.* at *6. Having found that claim preclusion barred the action, the district court dismissed Osburn II without leave to amend and with prejudice. *Id.* at *7. The Ninth Circuit Court of Appeals affirmed the ruling in Osburn II and found that the district court did not abuse its discretion in denying leave to amend because further amendment would have been futile and taken in bad faith. *Osburn v. Countrywide Home Loans*, 854 Fed. App’x 225 (9th Cir. Jul. 26, 2021). 2 3. Osburn III 3 Similarly, in Osburn III, the Osburns sued Deutsche Bank and other entities in state court on January 3, 2022. RJN, Ex. 15. They alleged fraudulent concealment, intentional misrepresentation, violation of the Homeowner Bill of Rights, violation of California Business and Professions Code § 17200 et seq., and wrongful foreclosure. *Id.* at 1. They additionally sought cancellation of instruments and to quiet title. *Id.* The Tulare County Superior Court sustained defendants’ demurrer without leave to amend, finding that the claims in the state action “involve[d] the same property, loan obligation, and general set of facts and circumstances as those involved in the first two federal cases, and [we]re based on the same legal theories.” *Id.* at 11 10. The superior court also found that both federal actions resulted in final judgments on the merits and that privity existed between the parties. *Id.* Accordingly, the superior court entered judgment in favor of defendants on May 23, 2022. RJN, Ex. 18. 14 4. Unlawful Detainer Action 15 In the unlawful detainer action, initiated on August 25, 2022, Deutsche Bank asserted its right to lawful possession of the subject property pursuant to a foreclosure sale held on 17 December 28, 2021. RJN, Ex. 20. Deutsche Bank purchased the property at a public auction for 18 \$420,000 and the trustee’s deed upon sale was recorded on February 25, 2022. RJN, Ex. 5. The 19 Clerk entered judgment for Deutsche Bank on October 21, 2022, finding it was entitled to 20 possession of the property, and a writ of possession of real property was issued shortly thereafter. 21 RJN, Exs. 22, 23. 22 B. Operative Pleadings 23 In his current complaint, plaintiff alleges the following events occurred on 9/30/2023: 24 Defendant claims to have sold [plaintiff’s] home at a foreclosure sale. No foreclosure sale was published. 25 Defendant called the police, and told them my home had been sold at a foreclosure sale and that I was illegally 26 occupying my home, the police arrested me and threw me in jail and terrorized my daughter. Defendant violated 18 27

U.S.C. § 1001 and falsified a foreclosure sale. 28

1 Doc. 1 (“Compl.”) at 4. Plaintiff uses a form complaint for a negligence claim. Id. at 1.

2 Plaintiff requests \$15,000,000.00 in damages and expungement of the trustee’s deed upon 3 sale.
Id. at 4. He asserts he regularly has nightmares about losing his home and being thrown 4 in jail
and contends he has “not had one good night of sleep since then because of the error 5 of
judgment.” Id. He further asserts defendant’s actions were a violation of 18 U.S.C. 6 § 1001. Id. 7
In its motion to dismiss, defendant contends that plaintiff’s claims are barred by res 8 judicata and
additionally fail to state any cognizable cause of action. See generally MTD,

9 Doc. 6. Defendant additionally provides the following factual summary:

10 In March 2006, the Osburns refinanced property located at 4523 West Evergreen Court, 11
Visalia, California. RJN, Ex. 1. They obtained a \$348,400 first loan (the “Loan”) from IndyMac 12
Bank, FSB (“IndyMac”), secured by a Deed of Trust (“DOT”) that encumbered the property. Id.
13 On or about November 22, 2010, plaintiffs executed a Home Affordable Modification Program
14 Modification Agreement (“Modification Agreement”). RJN, Ex. 6 at ¶ 28; Ex. 15 at ¶ 35. The
15 DOT was assigned to Deutsche Bank, as trustee for IndyMac INDX Mortgage Loan Trust
2006- 16 AR11, via a Corporate Assignment of Deed of Trust recorded on January 18, 2017. RJN,
Ex. 2. 17 In March 2017, Western Progressive was substituted as trustee under the DOT and
recorded a 18 Notice of Default (the “NOD”) against the property, reflecting that the Loan was
approximately 19 \$18,931.43 in default as of 4/4/2017. RJN, Ex. 3. Notices of trustee’s sale were
then recorded on

20 June 29, 2017, September 14, 2018, and November 15, 2021. RJN, Ex. 4. The Notice of
21 Trustee’s Sale recorded on November 15, 2021 specified that the Property was scheduled to be
22 sold at a trustee’s sale on December 28, 2021. RJN, Ex. 4. The Property was sold on
23 December 28, 2021, pursuant to that notice. RJN, Ex. 5. A Trustee’s Deed Upon Sale was
24 recorded on February 25, 2022, reflecting the trustee’s sale. Id.

25 II. LEGAL STANDARDS

26 The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal 27 sufficiency
of the complaint. *N. Star Int’l v. Ariz. Corp. Comm’n*, 720 F.2d 578, 581 (9th Cir. 28 1983).
“Dismissal can be based on the lack of a cognizable legal theory or the absence of 1 sufficient
facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 2 F.2d 696,
699 (9th Cir. 1990). 3 In determining whether a complaint states a claim on which relief may be
granted, the 4 court accepts as true the allegations in the complaint and construes the allegations in
the light 5 most favorable to the plaintiff. *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984).
However, 6 the court need not assume the truth of legal conclusions cast in the form of factual
allegations. 7 *Ashcroft v. Iqbal*, 556 U.S. 662, 680 (2009). While Rule 8(a) does not require
detailed factual 8 allegations, “it demands more than an unadorned, the-defendant-unlawfully-
harmed-me 9 accusation.” Id. at 678. A pleading is insufficient if it offers mere “labels and
conclusions” or “a 10 formulaic recitation of the elements of a cause of action.” 11 A motion to

dismiss on the basis of res judicata or claim preclusion may properly be brought under Rule 12(b)(6). See *Neitzke v. Williams*, 490 U.S. 319, 328 (1989) (“When a complaint raises an arguable question of law which the district court ultimately finds is correctly resolved against the plaintiff, dismissal on Rule 12(b)(6) grounds is appropriate[.]”); see also *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1054 (9th Cir. 2005) (“As a general matter, a court may, sua sponte, dismiss a case on preclusion grounds where the records of that court show that a previous action covering the same subject matter and parties had been dismissed.”) (internal quotation marks and citation omitted); *Day v. Moscow*, 955 F.2d 807, 811 (2d Cir. 1992) (concluding that, although generally an affirmative defense, res judicata may be raised in a Rule 12(b)(6) motion “when all relevant facts are shown by the court’s own records, of which the court takes notice”); *Scott v. Kuhlmann*, 746 F.2d 1377, 1378 (9th Cir.1984) (affirming the district court’s dismissal of complaint pursuant to Rule 12(b)(6) on res judicata grounds).

III. ANALYSIS

Defendant asserts, first, that plaintiff’s claims relating to the foreclosure of the subject property are barred by res judicata and, second, that plaintiff’s claims under 18 U.S.C. § 1001 fail as a matter of law. Defendant requests dismissal of plaintiff’s claims with prejudice. MTD, Doc 6. Plaintiff’s opposition does not meaningfully address defendant’s arguments. Instead, plaintiff asserts that defendant failed to comply with publication and recordation requirements before the trustee’s sale and “falsified” the sale. Opp’n, Doc. 9. The Court addresses these arguments below.

A. Res Judicata (Claim Preclusion)

The res judicata standard that applies turns on whether there is a prior federal or state court judgment at issue. The judgment in the unlawful detainer action was a California state court judgment, and California res judicata law therefore applies. When assessing state court judgments for purposes of res judicata, the Court must apply the rules of the state that entered the judgment.

Kremer v. Chemical Construction Corp., 456 U.S. 461, 482 (1982) (“§ 1738 does not allow federal courts to employ their own rules of res judicata in determining the effect of state judgments.”).

Under California law, the doctrine of res judicata applies when: “(1) the issue decided in the prior adjudication is identical to the one presented in the action in question; (2) there was a final judgment on the merits in the prior adjudication; and (3) the party against whom res judicata is asserted was a party to, or in privity with a party to, the prior adjudication.” *Lopez Reyes v. Kenosian & Miele, LLP*, 619 F. Supp. 2d 796, 809 (N.D. Cal. 2008) (citing *Nathanson v. Hecker*, 15 99 Cal. App. 4th 1158, 1162 (2002)). The burden of proof is on the party seeking to invoke the doctrine to show the elements of res judicata are satisfied. *Vella v. Hudgins*, 20 Cal. 3d 251, 257 (1977).

1. Identical Issues

To determine whether a prior proceeding involves the same claim or cause of action, “California has consistently applied the ‘primary rights’ theory, under which the invasion of one primary right gives rise to a single cause of action.” *Robi v. Five Platters, Inc.*, 838 F.2d 318, 324 (9th Cir. 1988) (quoting *Slater v. Blackwood*, 15 Cal. 3d 791, 795 (1975)); see also *Howitzon v. Evans Hotels, LLC*, 81 Cal. App. 5th 475, 487 (2022) (the doctrine “bars a

party . . . from 24 bringing a second lawsuit if that suit seeks to vindicate the same primary right”). In an unlawful 25 detainer action, the “primary right” adjudicated by the court is the right of possession of property. 26 *Zimmerman v. Stotter*, 160 Cal. App. 3d 1067 (1984) (indicating “the right to possession” is the 27 “primary right . . . determined in the unlawful detainer judgment.”). Under California law, while 28 “judgment in unlawful detainer usually has very limited res judicata effect” because the scope of 1 the action is limited to the issue of a party’s immediate right of possession rather than issues of 2 title, title may be litigated in unlawful detainer proceedings by purchasers, like Deutsche Bank, 3 who have acquired the property at a trustee’s sale, perfected title, and thereafter seek to evict an 4 occupant in possession. *Vella*, 20 Cal. 3d 251, 255 (1977). In these situations, courts consistently 5 have held that later-filed actions brought by parties challenging the irregularities of foreclosure 6 proceedings and a trustee’s sale cannot relitigate those issues following the entry of judgment 7 against them in an unlawful detainer action. *Castle v. Mortg. Elec. Registration Sys., Inc.*, No. 8 EDCV 11–00538 VAP (DTBx), 2011 WL 3626560, at *1 (C.D. Cal. Aug. 16, 2011) (collecting 9 cases). 10 Here, the primary right adjudicated in the prior unlawful detainer action was Deutsche 11 Bank’s right to possess the subject property. Plaintiff now contends that Deutsche Bank did not 12 comply with recording and notice requirements prior to holding the trustee sale and that the 13 foreclosure sale was “falsified.” Compl. at 4; Opp’n at 2. These arguments are foreclosed by the 14 prior judgment for Deutsche Bank. To the extent plaintiff challenges the validity of the process 15 used to conduct the trustee sale, that issue is foreclosed by the default judgment finding that 16 Deutsche Bank was entitled to possession. In entering default judgment, the superior court 17 necessarily resolved the issue of whether there was a regularly held trustee sale and title had been 18 perfected in Deutsche Bank’s name. RJN, Exs. 20–23; *Castle*, 2011 WL 3626560, at *6–7 19 (finding res judicata applied to state court default judgment because “[t]he validity of the 20 foreclosure process, trustee’s sale, and [Bank’s] acquisition of the Property were all encompassed 21 by the Unlawful Detainer Action.”). For the same reason, plaintiff’s fraud claim is foreclosed: 22 “Applying the traditional rule that a judgment rendered by a court of competent jurisdiction is 23 conclusive as to any issues necessarily determined in that action, the courts have held that 24 subsequent fraud . . . suits founded upon allegations of irregularities in a trustee’s sale are barred 25 by the prior unlawful detainer judgment.” *Barefield v. HSBC Mortg. Servs., Inc.*, No. 1:21-cv- 26 0613 JLT CDB, 2023 WL 2529638, at *14 (citing *Vella*, 20 Cal. 3d at 255–56) (italics added). 27 Plaintiff had a full opportunity to raise these challenges during the state court unlawful 28 detainer action, and because he failed to do so, “res judicata bars litigation of any issue that could 1 have been raised in the prior action.” *Id.* at *6 (citing *Amin v. Khazindar*, 112 Cal. App. 4th 582, 2 590 (2003)); see also *Barefield*, 2023 WL 2529638, at *15 (failure to raise improper notice claims 3 before state court precluded litigation of issue in subsequent action) (citations omitted). 4 Therefore, the identity of claims element is satisfied. 5 2. Final Judgment on the Merits 6 Courts have found that where a state court enters judgment against a borrower in an 7 unlawful detainer

action and issues a writ of possession, as here, this constitutes a final judgment 8 on the merits, even if the judgment was entered in default. See, e.g., *Albano v. Nw. Fin. Haw., 9 Inc.*, 244 F.3d 1061, 1064 (9th Cir. 2001) (holding default judgment in foreclosure action was 10 final judgment barring borrowers' later filed Truth in Lending Act claim); *U.S. ex rel. Hyatt v. 11 Mirza*, 2018 WL 6653319, at *4 n.5 (E.D. Cal. Dec. 19, 2018) (holding "the state court's decision 12 resolving the unlawful detainer action represents a final judgment on the merits of the claim."). 13 In this case, the Clerk of the Superior Court of Tulare County entered default judgment against 14 the Osburns on October 21, 2022, and issued a writ of possession to Deutsche Bank on

15 November 1, 2022. RJN, Exs. 22, 23. The unlawful detainer action therefore resulted in a final 16 judgment on the merits and this element of res judicata is satisfied. 17 3. Identity of Parties 18 There is no dispute that the parties are the same because the prior unlawful detainer action 19 involved the same named parties: Deutsche Bank and Osburn. RJN, Ex. 20; see also *In re Anthony* 20 H., 129 Cal. App. 4th 495, 503 (2005) (applying res judicata to cause of action between same 21 parties). Therefore, this element is met. 22 4. Conclusion 23 As all three elements are satisfied as to the unlawful detainer action, res judicata bars 24 plaintiff's claims regarding the foreclosure proceedings and trustee's sale. See *Castle*, 2011 WL 25 3626560, at *9 (res judicata barring attempts to relitigate the same primary right as between same 26 parties). Plaintiff's complaint is therefore dismissed with prejudice. 27 /// 28 /// 1 B. Failure to State a Claim under Fed. R. Civ. P. 12(b)(6) 2 To the extent plaintiff asserts that defendant violated 18 U.S.C. § 1001 in conducting the 3 trustee sale, plaintiff fails to state a cognizable claim. As defendant correctly observes, plaintiff's 4 contention fails as a matter of law. MTD, Doc. 6 at 5. 18 U.S.C. § 1001 is a federal criminal 5 statute that applies to certain false or fraudulent statements made in a matter within the 6 jurisdiction of the federal executive, legislative, or judicial branches. As a private citizen, 7 plaintiff has no authority to bring claims under a federal criminal statute. *Allen v. Gold Country* 8 *Casino*, 464 F.3d 1044, 1048 (9th Cir. 2006) (no private right of action for violation of criminal 9 statutes); *Dowdell v. Sacramento Hous. & Redevelopment Agency*, No. 2:11-cv-00409 JAM KJN 10 PS, 2011 WL 837046, at *2 (E.D. Cal. Mar. 8, 2011) (no private right of action under 18 U.S.C. § 11 1001); *Sareen v. Sareen*, No. CIV S-08-0176 LKK EFB PS, 2008 WL 11450612, at *4 (E.D. Cal.

12 Aug. 28, 2008) (same).

13 C. Plaintiff's Remaining Motions 14 On May 27, 2025, plaintiff filed a motion for leave to file a first amended complaint, 15 which Deutsche Bank opposed. Docs. 28, 33. In the lodged first amended complaint, plaintiff 16 seeks relief for his home's foreclosure sale on the ground that it was conducted in violation of a

17 January 22, 2019 bankruptcy order discharging plaintiff's debts under 11 U.S.C. § 524(a)(2).

18 Doc. 32 at 6, 25. Plaintiff's argument is simply another attempt to collaterally attack the 19 foreclosure proceedings by another method and is likewise barred by res judicata for the reasons 20 set forth above.³ Accordingly, that motion is also denied. 21 /// 22 23 3 Additionally,

the Ninth Circuit has held a bankruptcy discharge is not “effective . . . to void a lien or otherwise impair a creditor's state-law right of foreclosure.” In re Blendheim, 803 F.3d 24 477, 493 (9th Cir. 2015). The court explained that under the bankruptcy code “‘a discharge’ operates as an injunction against a creditor's ability to proceed against a debtor personally.” Id. 25 (citing 11 U.S.C. § 524(a)(2) (a discharge “operates as an injunction against . . . an action . . . to collect, recover or offset any such debt as a personal liability of the debtor”) (emphasis in 26 Blendheim)). “Discharges leave unimpaired a creditor's right to proceed in rem against the 27 debtor's property.” Id.; Johnson v. Home State Bank, 501 U.S. 78, 84 (1991) (“[A] bankruptcy discharge extinguishes only one mode of enforcing a claim—namely, an action against the debtor 28 in personam—while leaving intact another—namely, an action against the debtor in rem.”). 1 As the Court grants defendant’s motion to dismiss with prejudice, plaintiff's motions to 2 || set aside the sale and to consolidate the actions are denied as moot.

3 | IV. CONCLUSION

4 For the foregoing reasons, the Court orders: 5 1. Defendant’s motion to dismiss (Doc. 6) is GRANTED with prejudice; 6 2. Plaintiffs motion to set aside sale (Doc. 15) is DENIED as moot; 7 3. Plaintiffs motion to consolidate (Doc. 26) is DENIED as moot; 8 4. Plaintiffs motion for leave to file a first amended complaint (Doc. 28) is DENIED; 9 and 10 5. The Clerk of Court is directed to CLOSE this case. 11 12

13 | ☐ ☐ SO ORDERED. _

14 Dated: _ June 25, 2025 4h

UNITED STATES DISTRICT JUDGE

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