

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Joshua Warren Labonte v. BOKF, N.A., Universal Lending Corporation, Mortgage Electronic Registration Systems, Inc., and Chuck Broerman, Public Trustee

Labonte · No. 25-cv-02947-MDB · Decided February 10, 2026

SUMMARY

The United States District Court for the District of Colorado granted defendants’ motions to dismiss claims arising from mortgage and pending foreclosure proceedings. The court held that the plaintiff’s Truth in Lending Act, Colorado Consumer Protection Act, and fraudulent misrepresentation claims were time-barred, and that the quiet title allegations failed to establish superior title. The court dismissed Claims 1 through 3 with prejudice and Claims 4 and 5 without prejudice, and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the District of Colorado
WRITING FOR THE COURT	Maritza Dominguez Braswell
JURISDICTION	United States District Court for the District of Colorado
DECIDED	February 10, 2026
DOCKET	25-cv-02947-MDB
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved to dismiss Plaintiff’s amended complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The court granted all motions, dismissed Claims 1 through 3 with prejudice and Claims 4 and 5 without prejudice, and closed the case.
STANDARD OF REVIEW	For a facial Rule 12(b)(1) challenge, the court accepts the complaint’s allegations as true; for a factual Rule 12(b)(1) challenge supported by evidence, the court makes its own factual findings without converting the motion to one for summary judgment. On a Rule 12(b)(6) motion, the court accepts well-pleaded facts as true and views them in the light most favorable to the plaintiff, but requires sufficient factual matter to plausibly support each element of the asserted claims. A statute-of-limitations defense may be resolved on a Rule 12(b)(6) motion when the relevant dates are clear from the face of the complaint.

PRECEDENTIAL VALUE	unpublished
PARTIES	Joshua Warren Labonte v. BOKF, N.A., Universal Lending Corporation, Mortgage Electronic Registration Systems, Inc., Chuck Broerman, Public Trustee

TOPICS

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[statute of limitations](#)
[foreclosure](#)
[quiet title](#)
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QUESTIONS PRESENTED

1. Whether the Rooker-Feldman doctrine deprived the federal district court of subject matter jurisdiction over claims seeking to enjoin a pending foreclosure before a foreclosure sale occurred.
2. Whether the TILA claim was barred by TILA's one-year statute of limitations and whether the recoupment, setoff, or equitable-tolling theories avoided dismissal.
3. Whether the CCPA and fraudulent-misrepresentation claims were barred by their applicable three-year statutes of limitations.
4. Whether the amended complaint plausibly stated a quiet-title claim by alleging that Plaintiff's title was superior to Defendants' interests.
5. Whether Plaintiff could obtain a permanent injunction when the substantive claims underlying the requested relief were dismissed.

HOLDINGS

1. The Rooker-Feldman doctrine did not deprive the district court of subject matter jurisdiction because Plaintiff filed before a foreclosure sale and there had been no state-court proceeding confirming the Rule 120 order.
2. The TILA claim was barred because the alleged disclosure violations occurred when the mortgage transaction was consummated in 2020, while the action was filed in September 2025, well beyond TILA's one-year limitations period.
3. The CCPA and fraudulent-misrepresentation claims were time-barred because they were filed nearly five years after the mortgage transaction, whereas the applicable limitations periods were three years.
4. The amended complaint failed to state a plausible quiet-title claim because it attacked Defendants' title and alleged statutory violations but did not explain why Plaintiff's title was superior to Defendants' interests.
5. Plaintiff was not entitled to a permanent injunction because an injunction is a remedy rather than an independent cause of action, and dismissal of the substantive claims left no underlying legal right supporting equitable relief.

KEY QUOTATIONS

“The Rooker-Feldman doctrine provides that only the Supreme Court has jurisdiction to hear appeals from final state court judgments.”

“An injunction is not an independent cause of action; it is a remedy potentially available only after a plaintiff can make a showing that some independent legal right is being infringed”

FACTUAL BACKGROUND

Labonte alleged that he obtained a mortgage loan from Universal Lending Corporation for his Colorado property on October 2, 2020, and that the loan documents omitted or misstated disclosures required by TILA. He alleged that BOKF initiated a nonjudicial foreclosure under Colorado Rule of Civil Procedure 120 in August 2025 and that a state court authorized the foreclosure, but no foreclosure sale had occurred. His amended complaint asserted TILA, CCPA, fraudulent misrepresentation, quiet title, and injunctive-relief claims.

PROCEDURAL HISTORY

Labonte filed a federal action seeking relief arising from a pending Colorado Rule 120 foreclosure proceeding. He later filed an amended complaint asserting claims under the Truth in Lending Act, the Colorado Consumer Protection Act, fraudulent misrepresentation, quiet title, and injunctive relief. Defendants moved to dismiss; after briefing, the district court concluded that it had subject matter jurisdiction notwithstanding Rooker-Feldman but that the claims were untimely or inadequately pleaded.

DISPOSITION

other

CASES CITED

- Citizen Center v. Gessler, 770 F.3d 900, 913 (10th Cir.)
- Creek Red Nation, LLC v. Jeffco Midget Football Ass'n., Inc., 175 F. Supp. 3d 1290, 1293 (D. Colo. 2016)
- Holt v. United States, 46 F.3d 1000, 1002-03 (10th Cir. 1995)
- Casanova v. Ulibarri, 595 F.3d 1120, 1124 (10th Cir. 2010)
- Robbins v. Oklahoma, 519 F.3d 1242, 1247 (10th Cir. 2008)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 545 (2007)
- Bixler v. Foster, 596 F.3d 751, 756 (10th Cir. 2010)
- Ashcroft v. Iqbal, 556 U.S. 662, 667 (2009)
- Forest Guardians v. Forsgren, 478 F.3d 1149, 1160 (10th Cir. 2007)
- Smith v. Allbaugh, 921 F.3d 1261, 1268 (10th Cir. 2019)
- United States v. Griffith, 928 F.3d 855, 864 n.1 (10th Cir. 2019)
- Requena v. Roberts, 893 F.3d 1195, 1205 (10th Cir. 2018)
- Dodson v. Bd. of Cnty. Comm'rs, 878 F. Supp. 2d 1227, 1236 (D. Colo. 2012)
- Campbell v. City of Spencer, 682 F.3d 1278, 1281 (10th Cir. 2012)

- State v. National Indian Gaming Commission, 151 F. Supp. 3d 1199, 1208 (D. Kan. 2015), *aff'd sub nom. Kansas ex rel. Schmidt v. Zinke*, 861 F.3d 1024 (10th Cir. 2017)
- Bell v. Hood, 327 U.S. 678, 682 (1946)
- Mayotte v. U.S. Bank Nat'l Ass'n, 880 F.3d 1169, 1173 (10th Cir. 2018)
- Bear v. Patton, 451 F.3d 639, 641 (10th Cir. 2006)
- Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923)
- Lance v. Dennis, 546 U.S. 459, 460, 465 (2006)
- Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005)
- Viegas v. Partner Colorado Credit Union, 2025 WL 365865, at *5 (D. Colo. Jan. 31, 2025)
- Grigat v. Mortgage Lenders Network, USA, 2017 WL 4251943, at *3 (D. Colo. Sept. 26, 2017), report and recommendation adopted *sub nom. Grigat v. Mortgage Lenders Network USA, Inc.*, 2017 WL 6033686 (D. Colo. Oct. 31, 2017)
- McDonald v. J.P. Morgan Chase Bank, N.A., 2014 WL 334813, at *3 (D. Colo. Jan. 30, 2014)
- In re Miller, 666 F.3d 1255, 1262 (10th Cir. 2012)
- Lanier v. Sylvester, 2008 WL 4830797, at *3 (D. Colo. Nov. 4, 2008)
- Brickert v. Deutsche Bank National Trust Co., 380 F. Supp. 3d 1127, 1137 (D. Colo. 2019)
- Ulm v. Bank of Am., N.A., 2019 WL 859708, at *4 (D. Colo. Feb. 22, 2019), report and recommendation adopted, 2019 WL 1236747 (D. Colo. Mar. 18, 2019)
- Dryden v. Lou Budke's Arrow Finance Co., 630 F.2d 641, 646 (8th Cir. 1980)
- Plymouth Capital Co. v. District Court, 955 P.2d 1014, 1017 (Colo. 1998)
- Mortgage Investors Corp. v. Battle Mountain Corp., 70 P.3d 1176, 1183 (Colo. 2003), as modified on denial of reh'g (June 9, 2003)
- Savard v. JP Morgan Chase Bank, N.A., 2010 WL 2802543, at *5 (D. Colo. July 14, 2010)
- Kraft v. JP Morgan Chase Bank, Nat'l Ass'n, 2010 WL 4869099, at *5 (D. Colo. Nov. 23, 2010)
- Shell Western E&P, Inc. v. Dolores County Board of Commissioners, 948 P.2d 1002, 1007 (Colo. 1997)
- Dean Witter
- Yang v. Archuleta, 525 F.3d 925, 928 (10th Cir. 2008)
- Montoya v. Chao, 296 F.3d 952, 958 (10th Cir. 2002)
- Centennial Bankshares, Inc. v. Utah through Utah Department of Financial Institutions, 834 F. App'x 448, 452 (10th Cir. 2020)
- Dalton v. Countrywide Home Loans, Inc., 828 F. Supp. 2d 1242, 1249 (D. Colo. 2011)
- Hinojos v. Lohmann, 182 P.3d 692, 696-97 (Colo. App. 2008)
- Knowles v. Bank of Am., N.A., 2012 WL 5882570, at *5 (D. Colo. Nov. 21, 2012)
- School District No. 6 in Weld County v. Russell, 156 Colo. 75, 396 P.2d 929, 932 (Colo. 1964)
- McKinsey v. GMAC Mortgage, LLC, 2013 WL 3448483, at *14 (D. Colo. July 9, 2013), *aff'd*, 574 F. App'x 818 (10th Cir. 2014)
- Romstad v. City of Colorado Springs, 650 F. App'x 576, 585 n.7 (10th Cir. 2016) (unpublished)
- zvelo, Inc. v. Akamai Technologies, Inc., 2019 WL 4751809, at *6 (D. Colo. Sept. 30, 2019)

- Sterling v. Velsicol Chem. Corp., 855 F.2d 1188
- Harris v. Sand Canyon Corp., 274 F.R.D. 556

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO
Magistrate Judge Maritza Dominguez Braswell Civil Action No. 25–cv–02947–MDB JOSHUA WARREN LABONTE, Plaintiff, v. BOKF, N.A., UNIVERSAL LENDING CORPORATION, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., and CHUCK BROERMAN, Public Trustee, Defendants. ORDER This matter is before the Court on Universal Lending Corporation’s (“ULC”) Motion to Dismiss Plaintiff’s Amended Complaint (Doc.

No. 36), the Motion to Dismiss First Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) by Defendants Bokf, N.A. (“Bokf”) and Mortgage Electronic Registration Systems, Inc. (“MERS”) (Doc. No. 37), and Defendant Broerman’s (“Mr. Broerman”) Motion to Dismiss Amended Complaint Under Fed. R. Civ. P. 12(b)(1) and (6) (Doc. No. 38) (collectively, the Motions).

Plaintiff has filed responses in opposition to each Motion.¹ (Doc. No. 39 (response to Mr. Broerman); Doc. No. 40 (response to 1 Plaintiff’s responses appear to contain multiple inaccuracies that may stem from the improper use of generative artificial intelligence.

Although the Court does not attempt to catalogue every such error, several illustrative examples suffice. First, in Doc. No. 39 at page 10, Plaintiff attributes to *Citizen Center v. Gessler*, 770 F.3d 900, 913 (10th Cir.), a quotation cautioning against dismissals that would “strip a court of its ability to afford complete relief.” That language Bokf and MERS); Doc.

No. 41 (response to ULC).) Defendants have replied in support of their Motions. (Doc. Nos. 45; 46; 47.) After reviewing the Motions, briefing, and relevant law, the Court GRANTS the Motions. SUMMARY FOR PRO SE PLAINTIFF The Court is granting Defendants’ Motions to Dismiss and closing this case.

The TILA, CCPA, and fraudulent misrepresentation claims are time-barred. Additionally, the allegations do not support a quiet title claim, and the request for injunctive relief has no basis because all underlying claims are being dismissed. This is only a high-level summary of the Court’s Order.

The full decision is set forth below. BACKGROUND This case arises out of foreclosure proceedings related to Plaintiff’s property at 7168 Spring Linden Ct., Colorado Springs, CO 80927 (the “Property”). (See generally Doc. No. 31.) Plaintiff alleges that on October 2, 2020, he secured a mortgage loan with ULC for the Property. (Id. at ¶ 11.) Plaintiff says his loan agreement did not include certain disclosures required by the Truth in Lending Act (“TILA”): • “Loan Estimate within three business days of application”; does not appear in *Gessler*.

Second, in Doc. No. 40 at page 14, Plaintiff cites “Harris v. Sand Canyon Corp., 2011 WL 13176128.” Although Harris is a real case, its correct citation is 274 F.R.D. 556, and it does not appear to stand for the proposition asserted by Plaintiff.

Finally, in Doc. No. 41 at page 10, Plaintiff cites “Sterling v. Velsicol Chem. Corp., 855 P.2d 1188,” calling it a decision by a “Colorado court.” Sterling is a real case, but its correct citation is 855 F.2d 1188.

Moreover, Sterling was decided by the Sixth Circuit, not a Colorado court, and appears to have no connection to the proposition for which Plaintiff cites it. On careful consideration of the errors and circumstances of this case, including its dismissal as set forth herein, the Court declines to impose any disciplinary sanctions.

However, the Court strongly condemns the submission of inaccurate citations and mischaracterized authority. Such errors undermine the reliability of Plaintiff’s filings and diminish Plaintiff’s credibility. • “Closing Disclosure three business days prior to consummation”; • “Accurate APR and Finance Charge calculations due to the [non-]disclosure of Yield Spread Premium” • “Itemization of Amount Financed or Good Faith Estimate”; and, • “HUD Loan Information Booklet.” (Id. at ¶ 13.)

Plaintiff further alleges that the yield spread premium “increased the interest rate and total finance charge,” but this fact was “concealed.” (Id. at ¶ 14.) He also alleges the annual percentage rate was “overstated by 0.259 percent,” and “beyond the tolerance of $\pm$ 0.125 percent.” (Id. at ¶ 15.)

Finally, Plaintiff says the “closing documents also failed to disclose non- payment, default, and acceleration clauses.” (Id.) According to Plaintiff, on August 19, 2025, Bokf issued a “a Notice of Election and Demand for Sale,” “initiating nonjudicial foreclosure” of the 7168 Spring Linden Ct property pursuant to Colorado Rule of Civil Procedure 120. (Id. at ¶ 16.)

Apparently, at some unspecified time during the fall of 2025, the state court granted Bokf’s Rule 120 petition and authorized the foreclosure of Plaintiff’s property. (See id. at 35–38.) Plaintiff filed the instant action on September 19, 2025, seeking to enjoin the foreclosure proceedings (Claim 5). (Id. at ¶¶ 35–38.)

In support of this request for relief, Plaintiff brings claims under TILA (Claim 1) and the Colorado Consumer Protection Act (“CCPA”) (Claim 2), (id. at ¶¶ 19–26), as well as for fraudulent misrepresentation (Claim 3) (id. at ¶¶ 27–32). Additionally, Plaintiff asks to quiet title (Claim 4). (Id. at 33–34.) Bokf is a Defendant to each claim, ULC is a Defendant to Claims 1 through 4, MERS is a Defendant to Claims 4 and 5, and Mr. Broerman is a Defendant to Claim 5.

(See id. at ¶¶ 19–38.) Defendants seek dismissal of all claims. ULC and Bokf argue Plaintiff’s TILA, CCPA, and fraudulent misrepresentation claims are time-barred and insufficiently pled.

(See Doc. No. 36 at 5–14; Doc. No. 37 at 6–13; see also Doc. No. 38 at 5–7.) Additionally, Bokf and Mr. Broerman argue that Plaintiff has failed to state a quiet title or injunctive relief claim.

(Doc. No. 37 at 13–15.) Mr. Broerman also argues the Court must abstain from enjoining the foreclosure proceedings under the Rooker-Feldman doctrine. (Doc. No. 38 at 4–5.) ULC and MERS have also filed a disclaimer of interest as to the subject property. (Doc. Nos. 23, 50; see also Doc. No. 37 at 2 (“MERS was the original beneficiary of the Deed of Trust....MERS assigned the Deed of Trust to BOKF.

Thus, MERS no longer holds an interest in the Property and should be dismissed from Counts IV and V of Amended Complaint.” (internal citation omitted))). LEGAL STANDARD I. Fed. R. Civ. P. 12(b)(1) Federal Rule of Civil Procedure Rule 12(b)(1) allows a court to dismiss a complaint for lack of subject matter jurisdiction. Fed. R. Civ. P. 12(b)(1). Dismissal under Rule 12(b)(1) is not a judgment on the merits of a plaintiff’s case but a determination that the court lacks authority to adjudicate the matter, attacking the existence of jurisdiction rather than the complaint’s allegations.

Creek Red Nation, LLC v. Jeffco Midget Football Ass’n., Inc., 175 F. Supp. 3d 1290, 1293 (D. Colo. 2016). A challenge to subject matter jurisdiction may take one of two forms: a facial attack or a factual attack. When reviewing a facial attack on a complaint pursuant to Rule 12(b)(1), the Court accepts the allegations of the complaint as true. *Holt v. United States*, 46 F.3d 1000, 1002 (10th Cir.

1995). When reviewing a factual attack on a complaint supported by affidavits and other documents, the Court makes its own factual findings and need not convert the motion to one brought pursuant to Rule 56. *Id.* at 1003. II. Fed. R. Civ. P. 12(b)(6) Rule 12(b)(6) provides that a court may dismiss a complaint for “failure to state a claim upon which relief can be granted.” Fed.

R. Civ. P. 12(b)(6). In ruling on a Rule 12(b)(6) motion, a court must accept all well-pleaded facts as true and view these allegations in the light most favorable to the plaintiff. *Casanova v. Ulibarri*, 595 F.3d 1120, 1124 (10th Cir. 2010).

However, the “burden [remains] on the plaintiff to frame a ‘complaint with enough factual matter to suggest’ that [they are] entitled to relief.” *Robbins v. Oklahoma*, 519 F.3d 1242, 1247 (10th Cir. 2008) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007)). Indeed, “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Bixler v. Foster*, 596 F.3d 751, 756 (10th Cir.

2010) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 667 (2009)). Ultimately, the Court must “determine whether the complaint sufficiently alleges facts supporting all the elements necessary to establish an entitlement to relief under the legal theory proposed.” *Forest Guardians v. Forsgren*, 478 F.3d 1149, 1160 (10th Cir. 2007). III. Pro se Plaintiff In applying the above principles, this

Court is mindful Plaintiff proceeds pro se and thus affords his papers and filings a liberal construction.

Smith v. Allbaugh, 921 F.3d 1261, 1268 (10th Cir. 2019). But the Court cannot and does not act as his advocate, United States v. Griffith, 928 F.3d 855, 864 n.1 (10th Cir. 2019), and applies the same procedural rules and substantive law to Plaintiff as to a represented party. See Requena v. Roberts, 893 F.3d 1195, 1205 (10th Cir. 2018); Dodson v. Bd. of Cnty.

Comm'rs, 878 F. Supp. 2d 1227, 1236 (D. Colo. 2012). ANALYSIS I. Rooker-Feldman Doctrine Because Defendant Broerman's Rooker-Feldman argument implicates the Court's subject matter jurisdiction, the Court addresses it first. See Campbell v. City of Spencer, 682 F.3d 1278, 1281 (10th Cir. 2012) (stating that Rooker-Feldman is jurisdictional); State v. Nat'l Indian Gaming Comm'n, 151 F. Supp. 3d 1199, 1208 (D.

Kan. 2015) ("When faced with motions for dismissal relying on both [Rule 12(b)(1) and (6)], a court must first determine whether it has subject matter jurisdiction over the controversy before addressing the merits of the case under a Rule 12(b)(6) analysis." (citing Bell v. Hood, 327 U.S. 678, 682 (1946)), aff'd sub nom. Kansas ex rel. Schmidt v. Zinke, 861 F.3d 1024 (10th Cir.

2017). "The Rooker-Feldman doctrine provides that only the Supreme Court has jurisdiction to hear appeals from final state court judgments." Mayotte v. U.S. Bank Nat'l Ass'n, 880 F.3d 1169, 1173 (10th Cir. 2018) (quoting Bear v. Patton, 451 F.3d 639, 641 (10th Cir. 2006)) (alteration omitted); see also Rooker v. Fid. Trust Co., 263 U.S. 413 (1923).

The doctrine prevents lower federal courts from exercising jurisdiction "over cases brought by 'state-court losers' challenging 'state-court judgments rendered before the [federal] district court proceedings commenced.'" Lance v. Dennis, 546 U.S. 459, 460 (2006) (quoting Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005)).

The doctrine applies to claims where "(1) the plaintiff lost in state court, (2) the state court judgment caused the plaintiff's injuries, (3) the state court rendered judgment before the plaintiff filed the federal claim, and (4) the plaintiff is asking the district court to review and reject the state court judgment." Bruce v. City & Cnty. of Denver, 57 F.4th 738, 746 (10th Cir.

2023) (citing Exxon Mobil, 544 U.S. at 284). "Where these factors exist, [a federal district court] lack[s] subject matter jurisdiction." Id. (citing Lance, 546 U.S. at 465). Plaintiff argues Rooker-Feldman is not implicated here because a Rule 120 foreclosure order is not a final judgment, and the foreclosure sale has yet to occur. (Doc. No. 39 at 3–5.) Plaintiff is correct.

Courts have repeatedly held that Rooker-Feldman bars federal claims attacking completed foreclosure proceedings—i.e., claims seeking to undo the sale of a foreclosed property, see, e.g., Viegas v. Partner Colorado Credit Union, 2025 WL 365865, at *5 (D. Colo. Jan. 31, 2025)

(collecting cases), or claims challenging a state court proceeding that affirmed a Rule 120 order, see *Grigat v. Mortg.*

Lenders Network, USA, 2017 WL 4251943, at *3 (D. Colo. Sept. 26, 2017) (“[I]f a state court has approved the sale of a property and a plaintiff subsequently files suit in federal court asserting claims that are inextricably intertwined with the foreclosure proceeding, federal courts lack jurisdiction over the claims.”), report and recommendation adopted sub nom.

Grigat v. Mortg. Lenders Network USA, Inc., 2017 WL 6033686 (D. Colo. Oct. 31, 2017). But here, the case is brought prior to a foreclosure sale and in the absence of any state court proceeding confirming the Rule 120 order. See *Grigat*, 2017 WL 4251943 at *3 (“However, if the state court has only authorized the sale, the proceedings are not final, and federal district courts may exercise jurisdiction.” (citing *Miller*, 666 F. 3d at 1261–62)).

The Tenth Circuit has made clear that the Rooker–Feldman doctrine does not operate to preclude federal consideration of requests to enjoin a pending foreclosure sale. See *McDonald v. J.P. Morgan Chase Bank, N.A.*, 2014 WL 334813, at *3 (D. Colo. Jan. 30, 2014).

As the Tenth Circuit has noted, Rule 120 proceedings are non-adversarial and “Rule 120 itself provides that ‘[t]he granting of [a Rule 120 motion] shall be without prejudice to the right of any person aggrieved to seek injunctive or other relief in any court of competent jurisdiction[.]’” In re *Miller*, 666 F.3d 1255, 1262 (10th Cir. 2012) (quoting *Colo. R. Civ.*

P. 120(d)(4)); see *Lanier v. Sylvester*, 2008 WL 4830797, at *3 (D.Colo. Nov. 4, 2008) (“Rule 120 limits the scope of the hearing to issues regarding whether a default has occurred[.]”). As such, the Court finds it has subject matter jurisdiction over Plaintiff’s request for injunctive relief and turns to consider the Rule 12(b)(6) challenge. See *Brickert v. Deutsche Bank Nat’l Tr.*

Co., 380 F. Supp. 3d 1127, 1137 (D. Colo. 2019) (“[T]he Court finds that Rule 120 proceedings do not carry sufficient finality for Rooker-Feldman to apply.”). II. Statute of Limitations Defendants argue Plaintiff’s TILA, CCPA, and fraudulent misrepresentations claims are time-barred.² The Court agrees. A. TILA The TILA’s civil liability provision states: “any [TILA] action... may be brought... within one year from the date of the occurrence of the violation.” 15 U.S.C. § 1640(e). “A violation occurs, and the one year limitations period begins to run, ‘when credit is extended through the consummation of the transaction between the creditor and its customer without the required disclosures being made.’” *Betancourt v. Countrywide Home Loans, Inc.*, 344 F. Supp. 2 “An affirmative defense based on the statute of limitations can be resolved in a Rule 12(b)(6) motion to dismiss if the relevant dates are clear from the face of the complaint.” *Ulm v. Bank of Am.*, N.A., 2019 WL 859708, at *4 (D.

Colo. Feb. 22, 2019) (citing *Aldrich v. McCulloch Prop. Inc.*, 627 F.2d 1036, 1041 n.4 (10th Cir. 1980), report and recommendation adopted, 2019 WL 1236747 (D. Colo. Mar. 18, 2019). 2d 1253,

1258 (D. Colo. 2004) (quoting *Dryden v. Lou Budke's Arrow Finance Co.*, 630 F.2d 641, 646 (8th Cir. 1980)).

Accordingly, Plaintiff's TILA claim is subject to a one-year statute of limitations, which began running when the mortgage transaction was consummated in 2020. (See Doc. No. 31 at ¶ 11.) Because this case was initiated in September 2025 (Doc. No. 1), Plaintiff's TILA claim is barred. Plaintiff relies on the "recoupment" or "set-off" provision in § 1640(e), to argue the claim is not time-barred.

The argument is without merit. That section allows a borrower to assert TILA violations as a "defense" in "an action to collect [a] debt which was brought more than one year from the date of the occurrence of the violation." 15 U.S.C. § 1640(e). But Plaintiff is not using the alleged TILA violations as a "defense." He asserts them as affirmative claims. See *Rosenfield v. HSBC Bank, USA*, 2010 WL 3489926, at *3 (D.

Colo. Aug. 31, 2010) (rejecting plaintiff's argument that section 1640(e)'s statute of limitation did not apply because "the Plaintiff's damage claims are not asserted in a defensive capacity as setoffs to a debt... but rather, are offensive in nature"), *aff'd*, 681 F.3d 1172 (10th Cir. 2012). Additionally, and even assuming the Court construed the TILA claim as a "defense," the underlying Rule 120 foreclosure proceeding is not an "action to collect [a] debt." See *Rosenfield*, 2010 WL 3489926, at *3 ("Because a Rule 120 proceeding is not a means by which a creditor can 'collect the debt,' Colorado's courts have made it clear that claims for damages by debtors, whether they be independent or cognizable as recoupment or setoff, are not proper subjects for consideration within the Rule 120 hearing." (citing *Plymouth Capital Co. v. District Court*, 955 P.2d 1014, 1017 (Colo.1998))); see also *Mortg.*

Invs. Corp. v. Battle Mountain Corp., 70 P.3d 1176, 1183 (Colo. 2003), as modified on denial of reh'g (June 9, 2003) (distinguishing an action for "the enforcement of debts" from a "foreclosure on a deed of trust" in order to determine the proper statute of limitations in a different context).

Thus, § 1640(e)'s exception to the limitations period does not apply to the TILA claim here. See *Savard v. JP Morgan Chase Bank, N.A.*, 2010 WL 2802543, at *5 (D. Colo. July 14, 2010) ("A debtor who brings a creditor into court may not revive a time-barred claim by characterizing the suit as a defense to an illegal [foreclosure action]"); *Kraft v. JP Morgan Chase Bank, Nat.*

Ass'n, 2010 WL 4869099, at *5 (D. Colo. Nov. 23, 2010) ("Plaintiff's passing reference to offsets and recoupment, concepts which apply only in defense of a creditor's claim... is insufficient to demonstrate a viable claim outside TILA's one- year statute of limitations."). Still, the Court considers whether the TILA claim should be equitably tolled. "[U]nder certain circumstances, 'equity may require a tolling of the statutory period where flexibility is required to accomplish the goals of justice.'" *Shell Western E&P, Inc. v. Dolores Cnty.*

Bd. of Comm'rs, 948 P.2d 1002, 1007 (Colo. 1997) (quoting Dean Witter, 911 P.2d at 1096). "Equitable exceptions, however, have been narrowly construed" and require a plaintiff to show "(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way." *Harms v. IRS*, 321 F.3d 1001, 1006 (10th Cir. 2003); *Yang v. Archuleta*, 525 F.3d 925, 928 (10th Cir.

2008). Plaintiff does not provide any basis for equitable tolling. At most, Plaintiff appears to allege that he did not discover the alleged errors and missing documents until he had a "professional audit" conducted five years after the transaction. (See, e.g., Doc. No. 31 at ¶ 11–18; Doc. No. 40 at ¶ 49–51.) But this is insufficient to justify the extraordinary remedy of equitable tolling.

The documents at issue were available to Plaintiff at the time of the transaction, and his pro se status and inability to identify the issues or allegedly missing documents without a professional audit, does not justify the delay. *Montoya v. Chao*, 296 F.3d 952, 958 (10th Cir. 2002) (holding that difficulties faced by all litigants are insufficient to justify equitable tolling); see also *Centennial Bankshares, Inc. v. Utah through Utah Dep't of Fin.*

Institutions, 834 F. App'x 448, 452 (10th Cir. 2020) ("[E]quitable tolling is not available for those who could have known of the relevant information but inexcusably and unreasonably slept on their rights." (applying Utah law)). Additionally, there is no evidence that Defendants interfered or otherwise prevented Plaintiff from reasonable diligence. See *Dalton v. Countrywide Home Loans, Inc.*, 828 F. Supp. 2d 1242, 1249 (D.

Colo. 2011) (rejecting an equitable tolling argument where "Plaintiff has not alleged that Defendants prevented her from determining that there were inadequacies in their disclosures under TILA... and Plaintiff is unable to argue that she worked diligently to make this determination when she admits that she did not read any of the loan documents in detail at the time the loans closed").

B. CCPA and Fraudulent Misrepresentation Plaintiff's CCPA and fraudulent misrepresentation claims are subject to three-year statutes of limitations. Col. Rev. Stat. § 6–1–115 ("All actions brought under [the CCPA] must be commenced within three years after the date on which the false, misleading, or deceptive act or practice occurred[.]"); *Ulm v. Bank of Am., N.A.*, 2019 WL 859708, at *4 (D.

Colo. Feb. 22, 2019) ("Under Colorado law, the statute[] of limitations for fraud... [is] three years after the cause of action accrues." (citing Colo. Rev. Stat. § 13-80-101(1)(c))). These claims, filed nearly five years after the mortgage transaction at issue, are also time-barred.

Moreover, for the same reasons discussed above (see *supra* at 10–11), the allegations do not support equitable tolling. Accordingly, these claims are dismissed. III. Plaintiff's Request for Declaratory and Injunctive Relief All that remains is Plaintiff's request that the Court quiet title in his name (Claim 4) and enjoin the pending foreclosure sale (Claim 5).

These claims must also be dismissed. Quiet title actions are governed by Colo. R. Civ. P. 105, which authorizes “[a]n action... brought for the purpose of obtaining a complete adjudication of the rights of all parties thereto, with respect to any real property and for damages, if any, for the withholding of possession” *Hinojos v. Lohmann*, 182 P.3d 692, 696-97 (Colo.

App. 2008) (citing Colo. R. Civ. P. 105(a)). “A plaintiff in an action to quiet title ‘must rely on the strength of his own title thereto’ and cannot succeed by challenging defendant[']s title.” *Knowles v. Bank of Am., N.A.*, 2012 WL 5882570, at *5 (D. Colo. Nov. 21, 2012) (quoting *School Dist. No. 6 in Weld Cnty. v. Russell*, 156 Colo. 75, 396 P.2d 929, 932 (Colo.1964)).

Here, the Amended Complaint predicates the quiet title theory on the alleged TILA, CCPA, and common law violations underlying the dismissed statutory claims. (See Doc. No. 31 at ¶ 33–34 (“Because of Defendants’ material statutory and fraudulent violations, the purported Deed of Trust is void or voidable. Plaintiff is the lawful owner of the property and seeks a declaration quieting title in his name[.]”).)

However, because such allegations do not explain why Plaintiff’s title is superior to Defendants’ interest, Plaintiff has failed to state a plausible quiet title claim. See *Knowles*, 2012 WL 5882570, at *5 (dismissing a quiet title claim where “[t]he plaintiffs spent the majority of the complaint attacking defendants’ claims to title and said little about the strength of their own title to the property”); *McKinsey v. GMAC Mortg., LLC*, 2013 WL 3448483, at *14 (D.

Colo. July 9, 2013), *aff’d*, 574 F. App’x 818 (10th Cir. 2014) (dismissing a quiet title claim where “Plaintiffs have not alleged any facts demonstrating that they have title to the property that is superior to that of any of the defendants”).³ Finally, Plaintiff’s request for a permanent injunction preventing foreclosure is not an independent cause of action but a form of relief contingent on merits success.

See *Romstad v. City of Colorado Springs*, 650 F. App’x 576, 585 n.7 (10th Cir. 2016) (unpublished) (“An injunction is not an independent cause of action; it is a remedy potentially available only after a plaintiff can make a showing that some independent legal right is being infringed....”).

Because Plaintiff’s TILA, CCPA, and common law claims are dismissed, there is no basis for equitable relief. Thus, Plaintiff cannot demonstrate entitlement to a permanent injunction, and the request is dismissed. See *zvelo, Inc. v. Akamai Techs., Inc.*, 2019 WL 4751809, at *6 (D. Colo. Sept. 30, 2019) (“Because the Court has dismissed plaintiff’s substantive claims, there is no remaining claim for which plaintiff could seek injunctive relief.”).

CONCLUSION For the foregoing reasons, it is ORDERED that Universal Lending Corporation’s Motion to Dismiss Plaintiff’s Amended Complaint (Doc. No. 36), the Motion to Dismiss First Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6) by Defendants Bokf, N.A. and Mortgage

Electronic Registration Systems, Inc. (Doc. No. 37), and Defendant Broerman's (Motion to 3 Moreover, even if Plaintiff's TILA and CCPA-based allegations were deemed allegations explaining why Plaintiff's title is superior to Defendants' interest, Plaintiff has not cited, and the Court has not found, support for the proposition that the TILA or CCPA provides a mechanism by which alleged statutory violations, without more, invalidate a deed of trust or establish a borrower's superior title.

At most, such statutes provide remedial relief sounding in damages or unwinding of the transaction, which is fundamentally distinct from a quiet-title determination Dismiss Amended Complaint Under Fed. R. Civ. P. 12(b)(1) and (6) (Doc. No. 38) are GRANTED. Plaintiff's Claims 1 through 3 are dismissed with prejudice, and Claims 4 and 5 are dismissed without prejudice.

The Clerk of Court is directed to close this case. Dated this 10th day of February, 2026. BY THE COURT: _____ Maritza Dominguez Braswell United States Magistrate Judge