

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 TRACY HARDYAL, FRANK LOPA,

9 Plaintiffs,

10 v.

11 US BANK NATIONAL
ASSOCIATION, et al.,

12 Defendants.

C17-1416 TSZ

MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
Thomas S. Zilly, United States District Judge:

14 (1) Defendant U.S. Bank National Association, as Trustee's Motion to
15 Dismiss, docket no. 25, is STRICKEN as moot. The Motion asks the Court to dismiss
16 Plaintiffs' original complaint to quiet title, *see* docket no. 1-1, under Federal Rule of Civil
17 Procedure 12(b)(6). The Motion's primary argument is that Plaintiffs failed to
18 adequately allege that the debt underlying this dispute was accelerated in 2008. *See*
19 Motion at 1-4. Plaintiffs subsequently filed a First Amended Complaint, docket no. 27
(the "First Amended Complaint"), adding additional allegations and evidence concerning
the alleged 2008 acceleration. *See* First Amended Complaint at ¶ 3.4, Exhibit 4 ("You
are hereby notified that the beneficiary has elected to accelerate the loan described
herein").¹ The Court is satisfied that these additional allegations and evidence, along

20
21 ¹ Exhibit 4 to the First Amended Complaint is a document entitled "Notice of Default"
that Plaintiffs alleged to have received on February 13, 2008. *See* First Amended Complaint at
22 ¶ 3.4. The Court may rely on a document to which the complaint refers if the document is
central to the party's claims and its authenticity is not in question. *Marder v. Lopez*, 450 F.3d
23 445, 448 (9th Cir. 2006). Here, the Complaint expressly refers to Exhibit 4, it is central to

1 with the remaining changes in the First Amended Complaint, are sufficient to moot the
2 pending Motion. *Oliver v. Alcoa, Inc.*, No. C16-0741JLR, 2016 WL 4734310, at *2 n.3
(W.D. Wash. Sept. 12, 2016).

3 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
4 record.

5 Dated this 25th day of May, 2018.

6 William M. McCool
7 Clerk

8 s/Karen Dews
9 Deputy Clerk

10
11
12
13
14
15
16
17
18
19
20
21 _____
22 Plaintiffs' quiet title theory, and its authenticity is not in dispute. The Court can therefore rely on
23 this document for purposes of resolving the instant Motion.