

HONORABLE RONALD B. LEIGHTON

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARK D WALDRON, Chapter 7
Bankruptcy Trustee

Plaintiff,

v.

DEUTSCHE BANK NATIONAL TRUST
COMPANY AMERICAS, et al.,

Defendants

DEUTSCHE BANK TRUST COMPANY
AMERICAS, et al.,
Counterclaim Plaintiff/Third Party
Plaintiff,

v.

MICHAEL PAUL FREE and HAK SUK
FREE; TIMBERLAND BANK; BOEING
EMPLOYEES' CREDIT UNION; ALL
OCCUPANTS OF THE PROPERTY
COMMONLY KNOWN AS 2066
TAYLOR
STREET, MILTON, WA 98354,
Counterclaim Defendants/Third Party

Defendants

CASE NO. C15-5139-RBL

ORDER

THIS MATTER is before the Court on Deutsche Bank's Motion to Strike Plaintiff's
Untimely Response [Dtk. #68] and its Motion for Reconsideration [Dkt #70] of the Court's

1 Order permitting the substitution of the bankruptcy trustee as the real party in interest [Dkt. #69].
2 The Motion to Strike is DENIED as moot.

3 Deutsche Bank argues that the Plaintiffs were required to—and could not—establish that
4 their failure to name the real party in interest was the result of an “honest and understandable
5 mistake.” *See* Fed. R. Civ. P. 17(a)(3); *Feist v. Consolidated Freightways Corp.*, 100 F.Supp.2d
6 273, 276 (E.D. Pa. 1999). The Court has already indicated its skepticism of any claim of such a
7 mistake.

8 Under Local Rule CR 7(h), no motion for reconsideration will be granted unless an
9 opposing party has been afforded the opportunity to file a response.

10 The court hereby REQUESTS that Trustee Waldron file a short (less than 6 pages)
11 Response to the Motion for Reconsideration. The Response should address the applicability of
12 Rule 17 and the “understandable mistake” standard to his substitution effort. It should also
13 address whether any creditors might be prejudiced if he is not permitted to substitute. The
14 Response should be filed by December 27, 2016. Deutsche Bank’s Reply, if any should be filed
15 December 30. The Motion for Reconsideration [Dkt. #70] is **RE-NOTED for December 30,**
16 **2016.**

17 IT IS SO ORDERED.

18 Dated this 21st day of December, 2016.

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21 Ronald B. Leighton
22 United States District Judge
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