

DEC 02 2016

NOT FOR PUBLICATION

SUSAN M. SPRAUL, CLERK  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

In re:	)	BAP No. CC-16-1028-DKiF
	)	
JOHN K. REED,	)	Bk. No. 15-12230-PC
	)	
Debtor.	)	
<hr/>		
JOHN K. REED,	)	
	)	
Appellant,	)	
	)	
v.	)	<b>MEMORANDUM<sup>1</sup></b>
	)	
NEW YORK COMMUNITY BANK,	)	
	)	
Appellee.	)	
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Argued and Submitted on November 17, 2016  
at Pasadena, California

Filed - December 2, 2016

Appeal from the United States Bankruptcy Court  
for the Central District of California

Honorable Peter H. Carroll, Bankruptcy Judge, Presiding

Appearances: Appellant John K. Reed argued pro se; Megan E. Lees of Pite Duncan, LLP argued for appellee.

Before: DUNN,<sup>2</sup> KIRSCHER and FARIS, Bankruptcy Judges.

<sup>1</sup> This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R. App. P. 32.1), it has no precedential value. See 9th Cir. BAP Rule 8024-1.

<sup>2</sup> The Hon. Randall L. Dunn, United States Bankruptcy Judge for the District of Oregon, sitting by designation.

1 Former chapter 13<sup>3</sup> debtor John K. Reed appeals from the  
2 bankruptcy court's order granting relief from the automatic stay,  
3 including in rem relief, to New York Community Bank. To the  
4 extent we have jurisdiction over this appeal, we AFFIRM.

5 **I. FACTUAL BACKGROUND**

6 Reed purchased a home in Santa Barbara (the "Property") in  
7 2005. The purchase was financed through a loan from Ohio Savings  
8 Bank in the original amount of \$999,990, memorialized by a note  
9 and secured by a deed of trust. After the failure of Ohio  
10 Savings Bank, its assets were transferred to the appellant, New  
11 York Community Bank (the "Bank"). Apparently, the assets  
12 transferred included the note and deed of trust concerning the  
13 Property.<sup>4</sup>

14 Eventually, Reed stopped making payments, and the Bank  
15 commenced nonjudicial foreclosure proceedings against the  
16 Property. In October 2010, Reed transferred his interest in the  
17 Property as a gift to the JKR Olive Trust, an entity under Reed's  
18 control.<sup>5</sup> Reed commenced a chapter 13 case in 2011, which was  
19 dismissed within three months. He promptly filed a second  
20 chapter 13 case, which was dismissed the following year for  
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22  
23 <sup>3</sup> Unless otherwise indicated, all chapter and section  
24 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532.  
25 All "Rule" references are to the Federal Rules of Bankruptcy  
26 Procedure. All "Civil Rule" references are to the Federal Rules  
27 of Civil Procedure.

28 <sup>4</sup> We use the word "apparently" because Reed disputes this  
proposition.

<sup>5</sup> Reed told the bankruptcy court, "I am JKR Olive Trust."

1 failure to make plan payments.

2         Meanwhile, while the second chapter 13 case was pending,  
3 Reed made additional transfers of ownership interests in the  
4 Property. First, he caused the JKR Olive Trust to transfer its  
5 interest to Karen Williams as trustee of the JKR Olive Trust,<sup>6</sup>  
6 with Reed as its 100% beneficiary. Later, Reed amended the trust  
7 documents to name an entity called Lawson-Currell Centre, LLC  
8 ("Lawson-Currell") as a 10% beneficiary. Lawson-Currell was, at  
9 the time, a chapter 11 debtor in a case pending in the Northern  
10 District of California. According to a stipulated order entered  
11 in that case, Lawson-Currell had no knowledge that it held any  
12 interest in the Property.

13         After dismissal of his second case, Reed executed another  
14 amendment to the JKR Olive Trust, this time naming Bankers For  
15 Real Estate, LLC as a 10% beneficiary. Bankers For Real Estate,  
16 LLC filed a chapter 11 petition in the Southern District of  
17 California shortly thereafter. That case was dismissed, after  
18 which another chapter 11 case was commenced, this time by  
19 "Bankers 4 Real Estate, LLC" (which listed "Bankers For Real  
20 Estate, LLC" as its alias). After four months, this case was  
21 dismissed as well.

22         In 2014, Reed tried unsuccessfully to modify his home loan  
23 with the Bank. In 2015, he took a new approach. He wrote to the  
24 Bank that he wanted to tender full payment of the amount owing,  
25 and he wished to inspect the original note and deed of trust

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27         <sup>6</sup> The significance or purpose, if any, of this transfer from  
28 the JKR Olive Trust to its own trustee is unclear.

1 before paying. The Bank agreed to permit the inspection of the  
2 note and deed of trust in its possession (the "Loan Documents").

3 At the agreed time, Reed appeared, accompanied by Dr. James  
4 Kelley, an electrical and computer engineer who provides computer  
5 forensic examination services. Dr. Kelley spent hours examining  
6 the Loan Documents and taking extensive notes. He opined that  
7 the documents were fabricated. Reed reported Dr. Kelley's  
8 suspicions to various law enforcement authorities, but there is  
9 no indication in the record that any official action was taken,  
10 and Reed took no legal action of his own regarding the alleged  
11 fabrication.

12 With foreclosure still looming, Reed filed the underlying  
13 chapter 13 case (his third) on November 12, 2015. In his  
14 schedules, Reed reported no debts and listed \$0 in encumbrances  
15 against the Property.<sup>7</sup> He asserted he was self-employed as a  
16 "facilitator & entertainer" with an average monthly income of  
17 \$1,550.

18 In his initial plan, he proposed to make monthly payments of  
19 \$1,000 (even though he purported to have no creditors) for  
20 36 months "or until resolution of finding unknown creditor." In  
21 the provision regarding rejection of executory contracts, Reed  
22 proposed to reject "New York Community Bank's claim to be a  
23 beneficiary of mortgage." He included a miscellaneous provision  
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25 <sup>7</sup> In fact, Reed struck the word "Debtor" every time it  
26 appeared on the forms used for his petition, plan and schedules  
27 and replaced it with "Petitioner." As he explained in his plan,  
28 "Since I have not been able to identify whether or not there is  
an actual beneficiary [of the trust deed], I have listed myself  
as a 'petitioner' in this filing."

1 stating his belief that the Bank was not a "legitimate"  
2 beneficiary of the deed of trust and that the true beneficiary's  
3 identity was unknown. In an amendment to his plan, Reed  
4 decreased the proposed monthly payments to \$100 but left the  
5 other provisions substantively unchanged.

6 The Bank filed a motion for relief from the automatic stay,  
7 seeking to proceed with foreclosure, and for an order granting  
8 in rem relief against the Property. The Bank submitted with its  
9 motion the declaration of one of its employees, setting forth the  
10 history of Reed's transfers of fractional ownership interests in  
11 the Property. The Bank further stated that Reed had failed to  
12 make his most recent payment on the deed of trust, which had come  
13 due following the petition date.

14 Reed filed an opposition to the Bank's motion, accompanied  
15 by a declaration and a voluminous set of exhibits. In his  
16 declaration, Reed denied that his current bankruptcy filing was  
17 part of a scheme to hinder, delay or defraud creditors. He  
18 admitted, however, that his filings were made to prevent  
19 foreclosure, which he described as the attempted "theft" of the  
20 Property. Included in the attachments to Reed's declaration were  
21 copies of an affidavit signed by Dr. Kelley and an accompanying  
22 report, in which Dr. Kelley expressed his opinion that the Loan  
23 Documents were not genuine. Reed also argued in his opposition  
24 that he received insufficient notice of the upcoming hearing on  
25 the relief from stay motion.

26 Nevertheless, Reed appeared at the hearing, and the  
27 bankruptcy court rejected his insufficient notice argument,  
28 noting that Reed obviously had time to file a detailed opposition

1 and was present in court. The court explained that stay relief  
2 proceedings were summary, and relief could be granted upon the  
3 Bank's showing that it had a colorable claim to an interest in  
4 the Property and that its interest was not adequately protected  
5 due to missed payments. The Bank had done this by submitting a  
6 declaration from its employee stating that the Bank possessed the  
7 original Loan Documents, of which it was the proper beneficiary.  
8 The court excluded the statements in Dr. Kelley's report as  
9 unauthenticated hearsay.<sup>8</sup> In any event, the Bank was not  
10 required to provide definitive proof of its status as  
11 beneficiary, but merely to set forth a colorable claim.

12 As to the request for in rem relief, the bankruptcy court  
13 noted that Reed effectively conceded the necessary facts when he  
14 admitted making multiple transfers of the Property and filing  
15 multiple cases for the purpose of preventing foreclosure. The  
16 court thus found that Reed had filed the instant case in bad  
17 faith for the purpose of hindering, delaying or defrauding the  
18 Bank. The court entered an order granting relief from stay,  
19 including in rem relief. Reed appealed.

20 The bankruptcy court later dismissed Reed's chapter 13 case.  
21 Reed did not appeal the dismissal.<sup>9</sup>

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23 <sup>8</sup> The bankruptcy court noted that an affidavit was included  
24 with Dr. Kelley's report, but Dr. Kelley had not submitted an  
25 independent declaration to the bankruptcy court.

26 <sup>9</sup> We exercise our discretion to take judicial notice of the  
27 bankruptcy court's electronic docket. See O'Rourke v. Seaboard  
28 Sur. Co. (In re E.R. Fegert, Inc.), 887 F.2d 955, 957-58 (9th  
Cir. 1988); Atwood v. Chase Manhattan Mortg. Co. (In re Atwood),

(continued...)

1 **II. JURISDICTION**

2 The bankruptcy court had jurisdiction under  
3 28 U.S.C. § 157(b) (2) (G). With the qualifications discussed  
4 below, we have jurisdiction under 28 U.S.C. § 158.

5 **III. ISSUES**

6 1. Whether this appeal is moot.

7 2. Whether the bankruptcy court abused its discretion by  
8 granting in rem relief.

9 3. Whether the bankruptcy court denied Reed's  
10 constitutional rights by holding a hearing on insufficient  
11 notice.

12 **IV. STANDARDS OF REVIEW**

13 We review our own jurisdiction de novo. Franklin High Yield  
14 Tax-Free Income Fund v. City of Stockton, Cal. (In re City of  
15 Stockton, Cal.), 542 B.R. 261, 272 (9th Cir. BAP 2015). An order  
16 granting in rem relief under § 362(d) (4) is reviewed for abuse of  
17 discretion. Ellis v. Yu (In re Ellis), 523 B.R. 673, 677 (9th  
18 Cir. BAP 2014). A bankruptcy court abuses its discretion if it  
19 applies the wrong legal standard, or if its application of the  
20 correct legal standard is based on a view of the evidence that is  
21 illogical, implausible or unsupported by the record. United  
22 States v. Hinkson, 585 F.3d 1247, 1263 (9th Cir. 2009) (en banc).

23 **V. DISCUSSION**

24 **A. Mootness**

25 The Bank moved to dismiss this appeal for constitutional and  
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27 <sup>9</sup>(...continued)  
28 293 B.R. 227, 233 n.9 (9th Cir. BAP 2003).

1 equitable mootness. A motions panel denied the motion to dismiss  
2 but limited the scope of the appeal to the issue of in rem  
3 relief. In its brief on appeal, the Bank renewed its argument  
4 that the appeal should be dismissed. As explained more fully  
5 below, we agree with the motions panel that dismissal is not  
6 warranted, but the scope of the appeal must be limited to the  
7 in rem issue.

8 Generally speaking, there are two varieties of mootness that  
9 apply in bankruptcy appeals. First, an appeal is  
10 constitutionally moot if circumstances have changed such that the  
11 appellate tribunal is incapable of granting relief. Motor  
12 Vehicle Cas. Co. v. Thorpe Insulation Co. (In re Thorpe  
13 Insulation Co.), 677 F.3d 869, 880 (9th Cir. 2012). Second, an  
14 appeal is equitably moot if the order on appeal involves complex  
15 transactions or the rights of non-parties such that, although  
16 relief is possible, granting it would be inequitable. JPMCC  
17 2007-C1 Grasslawn Lodging, LLC v. Transwest Resort Props., Inc.  
18 (In re Transwest Resort Props., Inc.), 801 F.3d 1161, 1167 (9th  
19 Cir. 2015).

20 Because Reed's underlying bankruptcy case has been  
21 dismissed, the Bank argues that the appeal is constitutionally  
22 moot. Under most circumstances, we would agree. Once the  
23 underlying case was dismissed, the automatic stay terminated by  
24 operation of law. The dismissal of the case is not on appeal,  
25 and we are without jurisdiction to reinstate the bankruptcy case,  
26 even if we believed it would be proper to do so. Reversing the  
27 order granting stay relief would not reimpose the stay or prevent  
28 the Bank from foreclosing.



1           The flaw in the Bank's argument, however, is the in rem  
2 provision in the stay relief order. When a bankruptcy court  
3 grants in rem relief under § 362(d)(4), and the order is recorded  
4 in accordance with state law, it removes the subject property  
5 from the protection of the automatic stay not only in the current  
6 case, but in all subsequent bankruptcy cases, regardless of who  
7 files them, for the following two years. See § 362(b)(20).  
8 Therefore, as the Bank's counsel acknowledged at oral argument,  
9 the dismissal of Reed's current bankruptcy case does not prevent  
10 us from granting some effective relief in the event Reed prevails  
11 on the merits of his appeal. It is entirely possible that Reed  
12 or someone else claiming an interest in the Property will file  
13 another bankruptcy case before the two-year period expires.

14           With respect to equitable mootness, the Ninth Circuit has  
15 developed a four-factor test for determining whether an appeal  
16 should be dismissed. We must consider: (1) whether a stay was  
17 sought, and if so, whether it was obtained; (2) whether  
18 substantial consummation has occurred; (3) the effect a remedy  
19 would have on the interests of non-parties; and (4) whether any  
20 remedy can be granted without creating an unmanageable situation  
21 before the bankruptcy court on remand. In re Transwest Resort  
22 Props., Inc., 801 F.3d at 1167-68 (citing In re Thorpe Insulation  
23 Co., 677 F.3d at 881).

24           The Bank's equitable mootness argument appears to hinge  
25 entirely on Reed's failure to seek a stay. The Bank concedes  
26 that no non-parties appear to have any interest in the outcome of  
27 this appeal, and we are at a loss to imagine how reversal of the  
28 in rem order would present the bankruptcy court with an

1 unmanageable situation on remand. As to the second element,  
2 "substantial consummation" is a concept that relates to the  
3 confirmation of plans of reorganization. Because this appeal  
4 relates to stay relief, rather than plan confirmation, the  
5 appropriate consideration appears to be whether the Bank has  
6 completed its foreclosure. The Bank's counsel represented at  
7 oral argument that no foreclosure sale has taken place.

8 It is true that failure to seek a stay pending appeal weighs  
9 in favor of a finding of equitable mootness. In re Transwest  
10 Resort Props., Inc., 801 F.3d at 1168. But such failure does not  
11 **always** render an appeal moot. Equitable mootness is not a  
12 punishment for choosing not to seek a stay. The Ninth Circuit  
13 has consistently held that equitable mootness applies only where  
14 the order on appeal relates to "complex" transactions that are  
15 "difficult to unwind." Id. at 1167, quoting Rev Op Grp. v. ML  
16 Manager LLC (In re Mortgs. Ltd.), 771 F.3d 1211, 1215 n.2 (9th  
17 Cir. 2014). The in rem order does not present such a situation.

18 For these reasons, we conclude that the appeal is neither  
19 constitutionally nor equitably moot in its entirety, but its  
20 scope remains limited to the in rem aspect of the order on  
21 appeal.

## 22 **B. The Stay Relief Order**

### 23 **1. Standing**

24 Throughout his briefs, Reed questions the Bank's "standing."  
25 Standing is a threshold jurisdictional issue. Veal v. American  
26 Home Mtg. Servicing, Inc. (In re Veal), 450 B.R. 897, 906 (9th  
27 Cir. BAP 2011). If we were to conclude the Bank lacked standing  
28 before the bankruptcy court, it would follow that the court

1 lacked jurisdiction to grant in rem relief. Id. For the most  
2 part, however, Reed's "standing" arguments do not relate to this  
3 jurisdictional issue.

4       Instead, by arguing the Bank lacks "standing," Reed  
5 primarily appears to mean that the Bank does not have the right  
6 to foreclose, because the Loan Documents allegedly are invalid.  
7 But the Bank's standing to request stay relief did not depend on  
8 any conclusive determinations regarding the validity of the Loan  
9 Documents. As the Ninth Circuit has explained, "hearings on  
10 relief from the automatic stay are . . . handled in a summary  
11 fashion. . . . The validity of the claim or contract underlying  
12 the claim [here, the Loan Documents] **is not litigated** during the  
13 hearing." Johnson v. Righetti (In re Johnson), 756 F.2d 738, 740  
14 (9th Cir. 1985) (emphasis added, internal citation omitted). The  
15 bankruptcy court did not make a final determination of the  
16 validity of the Loan Documents or the Bank's right to foreclose.  
17 The court merely concluded that the Bank had a colorable claim  
18 and removed one obstacle - the automatic stay - standing in the  
19 way of foreclosure.

20       Because the Bank's right to foreclose was not directly at  
21 issue in the stay relief proceeding, the Bank was not required to  
22 prove that right definitively in order to establish standing.  
23 Indeed, the requirements for standing to seek stay relief are  
24 "lenient." In re Veal, 450 B.R. at 913. If a party has a  
25 "colorable claim" to enforce a right against estate property,  
26 that party has standing to seek stay relief. Id. at 914. More  
27 generally, any creditor whose "interests would be harmed by  
28 continuance of the stay" may seek relief. Kronemyer v. Am.

1 Contractors Indem. Co. (In re Kronemyer), 405 B.R. 915, 921 (9th  
2 Cir. BAP 2009).

3 By submitting a declaration from its employee to  
4 authenticate the attached Loan Documents, the Bank established a  
5 colorable claim to its asserted right to foreclose and thus  
6 established standing to seek stay relief. Because the stay  
7 prevented the Bank from pursuing foreclosure proceedings, the  
8 Bank's interests were harmed by continuance of the stay. This is  
9 true whether or not the Bank ultimately prevails in the  
10 foreclosure proceedings, which - we stress again - is a separate  
11 question that neither the bankruptcy court nor we must decide.

12 The Bank had standing to request stay relief.

13 **2. In rem relief**

14 Section 362(d)(4) was added to the Bankruptcy Code in 2005  
15 "to address schemes using bankruptcy to thwart legitimate  
16 foreclosure efforts through one or more transfers of interest in  
17 real property." First Yorkshire Holdings, Inc. v. Pacifica L 22,  
18 LLC (In re First Yorkshire Holdings, Inc.), 470 B.R. 864, 870  
19 (9th Cir. BAP 2012). Once in rem relief is granted, if the order  
20 is recorded in accordance with applicable state law, the subject  
21 property is excluded from the protection of the automatic stay in  
22 any bankruptcy case filed within the following two years. This  
23 prevents a debtor from circumventing a stay relief order by  
24 simply filing another case or transferring the property to  
25 another debtor. An in rem order grants "prospective protection  
26 against not only the debtor, but also every non-debtor, co-owner,  
27 and subsequent owner of the property." Id. at 871.

28 Because this relief has serious implications, it is

1 available only when the bankruptcy court makes affirmative  
2 findings that three elements are present: (1) the debtor filed  
3 the current case as part of a scheme; (2) the object of the  
4 scheme is to hinder, delay or defraud creditors; and (3) the  
5 scheme involves either unauthorized transfers of the property or  
6 multiple bankruptcy filings affecting the property. Id. at  
7 870-71.

8 The bankruptcy court made the necessary findings to support  
9 in rem relief. Specifically, it found that Reed caused multiple  
10 transfers of the Property without the Bank's authorization, that  
11 he filed or caused to be filed multiple cases involving the  
12 Property, and that he did these things for the purpose of  
13 preventing, i.e., hindering, the Bank from foreclosing. Though  
14 the court did not use the word "scheme" to describe Reed's  
15 actions, the stated findings leave us in no doubt that the court  
16 found this element to be present.<sup>10</sup>

17 The record supports all of these findings. Indeed, Reed  
18 admitted the necessary facts in his own declaration: "I declare  
19 that this filing and all previous filings have been done for the  
20 sole purpose of trying to protect myself from the theft of my  
21 property." It is clear from the context that the "theft" to  
22 which Reed referred was the Bank's foreclosure.

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24 <sup>10</sup> The bankruptcy court found that the various transfers and  
25 filings were "done for the sole purpose of trying to protect the  
26 Debtor from [what he considered to be] the theft of his  
27 property." Based on Reed's history of filings, the court further  
28 found that he did not file the present case in good faith. The  
finding of a persistent, purposeful effort to accomplish a goal  
that is pursued in bad faith satisfies the "scheme" element of  
§ 362(d)(4).

1 Reed obviously believes that the Bank has no right to  
2 foreclose, that it has violated state law by attempting to do so,  
3 and that he therefore is morally justified in trying to stop the  
4 foreclosure. These beliefs, however earnestly held, do not  
5 exempt him from the application of § 362(d)(4). If the Bank has  
6 done anything to violate the law in relation to the Property, it  
7 is incumbent upon Reed to raise that argument in a forum capable  
8 of entertaining it.<sup>11</sup> Repeatedly invoking the automatic stay,  
9 without any apparent intention of restructuring debts or  
10 obtaining a discharge, is not a legitimate alternative.

11 The bankruptcy court did not abuse its discretion by  
12 granting in rem relief.

### 13 **C. Due Process**

14 Finally, we must address Reed's arguments that the  
15 procedures employed by the bankruptcy court violated his  
16 constitutional right to due process of law.<sup>12</sup>

17 Reed argued before the bankruptcy court that he received  
18 insufficient notice of the stay relief proceeding, because he  
19 received the notice and motion less than 20 days before the

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21 <sup>11</sup> The parties represented at oral argument that Reed  
22 recently commenced civil litigation against the Bank in relation  
23 to the Loan Documents.

24 <sup>12</sup> Reed refers to both due process and equal protection of  
25 the laws, but he does not raise any specific arguments relating  
26 to equal protection. We address all of Reed's constitutional  
27 arguments under the rubric of due process.

28 Reed also suggests in his opening brief that his due process  
rights were violated in connection with the dismissal of his  
bankruptcy case. This appeal pertains only to the order granting  
stay relief. The order dismissing the case was not appealed, and  
we have no jurisdiction to review it.

1 hearing. We agree with the bankruptcy court, based on the Bank's  
2 certificate of service, that proper notice was provided. More  
3 importantly, the fact that Reed was able to prepare a lengthy  
4 opposition to the motion demonstrates that he had sufficient  
5 notice of the proceeding. The Constitution requires "notice  
6 reasonably calculated, under all the circumstances, to apprise  
7 interested parties of the action and afford them an opportunity  
8 to present their objection." Mullane v. Cent. Hanover Bank & Tr.  
9 Co., 339 U.S. 306, 314 (1950); Espinosa v. United Student Aid  
10 Funds, Inc., 553 F.3d 1193, 1202 (9th Cir. 2008), aff'd sub nom  
11 United Student Aid Funds, Inc. v. Espinosa, 559 U.S. 260 (2010).  
12 When a party receives actual notice, this standard is satisfied.  
13 Id. at 1203. Reed both responded to the motion and appeared at  
14 the hearing. He does not identify anything more he would have  
15 done if he had received notice earlier.

16 Next, Reed argues that the bankruptcy court violated his due  
17 process rights by "ignoring" Dr. Kelley's report, which Reed  
18 attached to his declaration. In fact, the bankruptcy court did  
19 not ignore the report but rather excluded it on grounds of  
20 hearsay and lack of proper authentication. More importantly, as  
21 discussed above, the bankruptcy court was not required to make  
22 any conclusive findings as to the validity of the Loan Documents.  
23 It therefore was not necessary for the bankruptcy court to  
24 consider Dr. Kelley's unauthenticated opinion on that subject.<sup>13</sup>

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26 <sup>13</sup> Prior to oral argument, Reed submitted an addendum to his  
27 briefs on appeal, to which he attached a new declaration from  
28 Dr. Kelley. This declaration was not before the bankruptcy court  
(continued...)

1 We do not perceive any due process violation in the decision to  
2 exclude the report.

3 Otherwise, Reed argues that his "right to an unbiased  
4 tribunal" somehow was violated. He does not articulate any basis  
5 for concluding that the bankruptcy court was biased, apart from  
6 the fact that it ruled against him and in favor of the Bank.  
7 "[J]udicial rulings alone almost never constitute a valid basis"  
8 for demonstrating bias. Liteky v. United States, 510 U.S. 540,  
9 555 (1994). Our review of the record discloses no basis for  
10 questioning the bankruptcy court's impartiality.

#### 11 **VI. CONCLUSION**

12 Based upon the foregoing, we conclude that the bankruptcy  
13 court did not abuse its discretion or otherwise err in entering  
14 the in rem order. We AFFIRM.

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26 <sup>13</sup>(...continued)  
27 and is not part of the record on appeal. Accordingly, we do not  
28 consider it. See Wilcox v. Parker (In re Parker), 477 B.R. 570,  
577 n.10 (9th Cir. BAP 2012) (declining to consider documents not  
presented to the bankruptcy court).