



Opinion 468

Published on District of Utah (<https://www.utb.uscourts.gov>)

Opinion Title: 01/24/2005 UNPUBLISHED Jones v. Homecomings Financial Network and Residential Funding Corporation 04-2636, Judge Thurman

Body: Defendants sought an order dismissing Counts 3-12 and 14 in the Plaintiff's Complaint for failure to state a claim upon which relief can be granted because, Defendants argued, the applicable statutes of limitation created a complete bar to Plaintiffs' recovery on those claims. Defendants further argued that the Wrongful Foreclosure claim was not ripe because Defendants had not conducted a foreclosure sale, and that the Objection to the Proof of Claim was not ripe because Defendants had not filed a proof of claim in this case. The Court found that 1) Debtor's wife could not utilize § 108(a) because she is not a debtor in this bankruptcy case; 2) Debtor himself could not utilize § 108(a) because that section was meant to benefit solely trustees or debtors in possession; 3) Debtor is not afforded the benefits of § 1640(e) because it is inapplicable to this case; and 4) Debtor's objection to proof of claim is unripe because neither Defendant had filed a proof of claim in this case. Accordingly, the Defendants' Motion to Dismiss Counts 3 through 12 and Count 14 of Plaintiffs' Complaint was granted.

File:  [468.pdf](#) [1]

Judge: [Judge William T. Thurman](#) [2]

Date: Monday, January 24, 2005

Source URL: <https://www.utb.uscourts.gov/opinions/opinion-468#comment-0>

Links

[1] <https://www.utb.uscourts.gov/sites/default/files/opinions/468.pdf>

[2] <https://www.utb.uscourts.gov/content/judge-william-t-thurman>