

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

WASHINGTON MUTUAL, INC. and  
WMI INVESTMENT CORP.

Plaintiffs,

v.

FEDERAL DEPOSIT INSURANCE  
CORPORATION, in its capacity as receiver of  
Washington Mutual Bank, and FEDERAL  
DEPOSIT INSURANCE CORPORATION, in  
its corporate capacity,

Defendants.

Case No. 1:09-cv-0533 (RMC)

ORAL ARGUMENT REQUESTED

**MOTION OF DEFENDANT FEDERAL DEPOSIT INSURANCE CORPORATION,  
AS RECEIVER FOR WASHINGTON MUTUAL BANK, TO DISMISS THE  
COMPLAINT IN PART PURSUANT TO FEDERAL RULES 12(B)(1) AND 12(B)(6)**

Defendant the Federal Deposit Insurance Corporation, as receiver for Washington Mutual Bank (the "FDIC-Receiver"), pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), respectfully moves for dismissal in part of the complaint dated March 20, 2009 in this action (the "Complaint"). For the reasons set forth in the accompanying memorandum of law, the FDIC-Receiver respectfully submits that Counts II, III, IV and V of the Complaint, and plaintiffs' claims for alleged fraudulent transfers in Count I, should be dismissed for lack of subject matter jurisdiction or for failure to state a claim upon which relief can be granted. In support of the motion, the FDIC-Receiver relies upon the Complaint, the accompanying memorandum of law, the Declaration of John J. Clarke, Jr. dated June 11, 2009 and the exhibits thereto, and all other proceedings had in this action.

The FDIC-Receiver respectfully requests oral argument with respect to this motion.

Dated: Washington, D.C.  
June 11, 2009

Respectfully submitted,

/s/ David Clarke

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- and -

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Attorneys for Defendant  
Federal Deposit Insurance Corporation,  
as Receiver for Washington Mutual Bank

**CERTIFICATE OF SERVICE**

The undersigned attorney for the FDIC-Receiver certifies that on this 11th day of June 2009, he caused a copy of the foregoing document to be filed via ECF which will cause electronic notice of its filing to be served on all parties who have appeared in this action.

/s/ John J. Clarke, Jr.

John J. Clarke, Jr.