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NOTICE: Decisions issued by the Appeals Court pursuant to its rule 1:28 are primarily addressed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, rule 1:28 decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28, issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent.

COMMONWEALTH OF MASSACHUSETTS APPEALS COURT

12-P-469 DEUTSCHE BANK NATIONAL TRUST COMPANY, trustee, [\[FN1\]](#) vs. LINDSEY BUTLER (and a companion case). [\[FN2\]](#)

←12-P-468→

*MEMORANDUM AND ORDER PURSUANT TO RULE 1:28*

These two appeals are from judgments of the Land Court in proceedings brought by Deutsche Bank National Trust Company (Deutsche Bank) under the Federal Servicemembers Civil Relief Act (SCRA), 50 U.S.C. app. §§ 501 et seq. (2006). In each case, the same judge found that Deutsche Bank had standing to bring the action because it was the current holder of the defendants' mortgages by assignment. [\[FN3\]](#) The same judge also ruled that the defendants were not entitled to SCRA's protections because none of them claimed to be a member of the military. The defendants appealed.

On appeal, the defendants do not claim to be entitled to the protections of the SCRA. Instead, they raise the same argument: the judge improperly determined that they may not assert, in a SCRA case, the validity of the foreclosure notice required under G. L. c. 244, § 35A. These appeals are controlled by *HSBC Bank USA, N.A. v. Matt*, 464 Mass. 193 (2013) (*HSBC Bank*), which was issued after the oral arguments in these cases had been heard. In *HSBC Bank*, the Supreme Judicial Court explained that a SCRA case 'cannot affect the rights or interests of nonservicemembers,' and held that defendants, like those in the cases currently before us, who do not assert that they are entitled to the protections of SCRA, 'have no interest in the proceeding' and are not entitled to file responsive pleadings to the complaint. *Id.* at 199. Accordingly, both judgments are affirmed.

*So ordered.*

By the Court (Kafker, Milkey & Agnes, JJ.),

Entered: February 19, 2013.

[FN1.](#) For the American Home Mortgage Assets Trust Series 2007-1 Mortgage Backed Pass-Through Certificates.

[FN2.](#) Deutsche Bank National Trust Co. vs. Ashley Brooks & Mark Scharwenka.

[FN3.](#) These findings were supported by the documentary evidence presented in the record on appeal.

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