

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON

CIVIL ACTION NO. 08-459-JBC
(Related action: Civil Action No. 09-362)

GMAC MORTGAGE, LLC,

PLAINTIFF,

V. AMENDED MEMORANDUM OPINION AND ORDER

HEATHER BOONE MCKEEVER, ET AL.,

DEFENDANTS.

* * * * *

This matter is before the court on the motion for an extension of time, R. 55, by one of the defendants, Heather McKeever, in an action styled *Deutsche Bank Trust Company Americas v. Haffey, et. al.*, Lexington Civil Action 09-362, which is part of this consolidated action. For the reasons below, the court will deny the motion in part and grant it in part.

I. Background

Deutsche Bank brought this foreclosure action against Heather McKeever and Shane Haffey, a married couple, on November 9, 2009. Lexington Civil Action 09-362, R. 1. McKeever filed a counter-claim and third-party complaint on February 9, 2010, naming Deutsche Bank; GMAC Mortgage, LLC; Residential Accredited Loans, Inc. ("RALI"); Residential Funding Company, LLC ("RFC"); the Bank of the Bluegrass and several of its employees individually ("BoB"); and Mortgage Electronic Registration Systems, Inc. and MERSCORP, (collectively referred to as "MERS"). *Id.* at R. 17.

On March 1, 2010, Deutsche Bank, GMAC, RALI, and RFC moved to dismiss the counter-claim and third-party complaint. R. 33. On May 4, 2010, BoB also moved to dismiss the third-party complaint. R. 53. McKeever moved for an extension of time to respond to each of these motions. R. 55.

To date, McKeever and Haffey have not responded to the motion to dismiss filed by Deutsche, GMAC, RALI and RFC. On May 11, 2010, well beyond the deadline for responding, McKeever filed the instant motion for an extension of time to respond to that motion to dismiss (R. 33) and to respond to the motion to dismiss filed by BoB on May 4, 2010 (R. 53). The third-party defendants objected to McKeever's motion. R. 56; R. 62.

II. Analysis

Pursuant to Rule 7.1(c) of the Joint and Local Rules for the Eastern and Western Districts of Kentucky, a party opposing a motion must file a response within twenty-one days of service of the motion. Failure to respond to a motion may be grounds for granting the motion.

With respect to the motion to dismiss by Deutsche, GMAC, RALI and RFC, McKeever has failed to respond or to request additional time to respond in a timely manner and has not articulated a reason for the delay. Although the court declines to exercise its discretion to dismiss the case pursuant to Local Rule 7.1(c), it will deny her request for additional time with respect to R. 33, the motion to dismiss by Deutsche, GMAC, RALI and RFC. Because her request to respond to the motion to

dismiss by Bank of the Bluegrass, R. 53, was timely, the court will grant McKeever additional time to respond to that motion. Response and reply times for that motion are set out in a prior order by this court. R. 66.

III. Conclusion

Accordingly,

IT IS ORDERED that the motion for an extension of time by McKeever, R. 55, is **DENIED IN PART** with respect to R. 33, and is **GRANTED IN PART** with respect to R. 53. Response and Reply times for the motion to dismiss by Bank of the Bluegrass, R. 53, are governed by a prior order, R. 66.

Signed on June 18, 2010



Jennifer B. Coffman

JENNIFER B. COFFMAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY