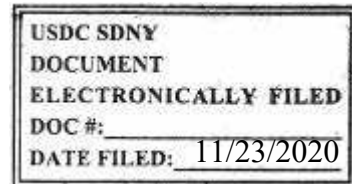


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. Bank National Association, as Trustee for GSAMP
Trust 2007-HE2,

Plaintiff,

–v–

Goldman Sachs Mortgage Company, *et al.*,

Defendants.

19-cv-2307 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

U.S. Bank National Association claims that Goldman Sachs Mortgage Company and GS Mortgage Securities Corp. (collectively, “Goldman”) breached their contractual obligations under a Pooling and Serving Agreement (“PSA”) to a trust for which U.S. Bank serves as trustee. The parties agree that the terms of the PSA are “identical” to those involved in a related case between the parties (the “2007-HE1 action”) in which Goldman has also moved to dismiss. *See* Dkt. No. 44, at 1. The Court entered a stipulation by which the parties agreed to incorporate by reference their briefs and supporting papers in the 2007-HE1 action and to limit their arguments here to letter briefing on any points of distinction. Dkt. No. 43.

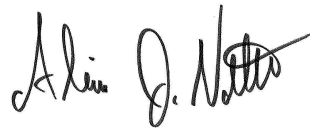
Only two factors distinguish this case from the 2007-HE1 action. First, U.S. Bank’s complaint here omits two claims it initially asserted and has now abandoned in the 2007-HE1 action alleging Goldman failed to notify it of warranty breaches. *Compare* Complaint, Dkt. No. 29, ¶¶ 70–93, with *U.S. Bank National Association, as Trustee for GSAMP Trust 2007-HE1 v. Goldman Sachs Mortgage Company, L.P., et al.*, No. 19-cv-2305 (AJN), Dkt. No. 22, ¶¶ 84–123. Second, U.S. Bank includes further allegations here of facts supporting an inference that, if the

PSA required it to obtain depositor consent before filing suit, consent was either given or waived. *See* Complaint ¶ 63; *see also* Def. Br., Dkt. No. 44, at 2–3. Because the Court has held in the 2007-HE1 action that the relevant provisions of the PSA did not require U.S. Bank to obtain depositor consent before filing suit, it need not decide whether U.S. Bank has plausibly alleged that consent was given or waived here.

For the reasons stated in the Court’s Opinion and Order in *U.S. Bank National Association, as Trustee for GSAMP Trust 2007-HE1 v. Goldman Sachs Mortgage Company, L.P., et al.*, No. 19-cv-2305 (AJN), dated November 23, 2020, Dkt. No. 72, Goldman’s letter motion to dismiss (Dkt. No. 44) is DENIED. U.S. Bank’s letter motion for oral argument (Dkt. No. 48) is DENIED as moot. The Court will set a status conference by separate order.

SO ORDERED.

Dated: November 23, 2020
New York, New York



ALISON J. NATHAN
United States District Judge