

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SAKINA MAYSAN BEY,)	
fka Sheila M. Hayes,)	CASE NO. 4:16CV0267
)	
Plaintiff,)	
)	JUDGE BENITA Y. PEARSON
v.)	
)	
JEFFREY J. BROWN, <i>etc., et al.</i> ,)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
Defendants.)	[Resolving ECF Nos. 5 , 17 , and 21]

Pending are (1) Plaintiff's Amended Application to Proceed Without Prepayment of Fees ([ECF No. 5](#)), (2) Defendants Bruce Daryl, Keith Anderson, Denmar Dixon, and Gary Tillett's Motion to Dismiss Plaintiff's Complaint Under [Fed. R. Civ. P. 12\(b\)\(6\)](#) for Failure to State a Claim ([ECF No. 17](#)), and (3) Defendants Ronald M. Faris acting as President, CEO and Michael R. Bourque, Jr. acting as CFO of Ocwen Financial Corporation's Motion to Dismiss Plaintiff's Complaint Under [Fed. R. Civ. P. 12\(b\)\(6\)](#) ([ECF No. 21](#)). The Court has been advised, having reviewed the record, the parties' briefs and the applicable law. For the reasons set forth below, the Court denies Plaintiff's amended application as moot and denies these motions to dismiss without prejudice.

I. Amended Application to Proceed Without Prepayment of Fees

Plaintiff filed an Amended Application to Proceed Without Prepayment of Fees ([ECF No. 5](#)) on February 5, 2016. On March 7, 2016, the Clerk collected \$400.00 from Plaintiff for the

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payment of fees. *See* Receipt number 44660003924. Therefore, the Court denies Plaintiff's amended application as moot.

II. Motions to Dismiss

Defendants Bruce Daryl, Keith Anderson, Denmark Dixon, Gary Tillett, and Ronald M. Faris acting as President, CEO and Michael R. Bourque, Jr. acting as CFO of Ocwen Financial Corporation move the Court for an Order dismissing the Complaint ([ECF No. 1](#)). These motions, however, are directed at the Complaint ([ECF No. 1](#)), which was superseded by the Amended Complaint ([ECF No. 20](#)). *See Clark v. Johnston*, 413 Fed.Appx. 804, 811 (6th Cir. 2011) (citing [6 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1476 \(3d ed. 2010\)](#) (stating that “[a] pleading that has been amended under [Rule 15\(a\)](#) supersedes the pleading it modifies” and that “[o]nce an amended pleading is interposed, the original pleading no longer performs any function in the case”); *see also Drake v. City of Detroit, Michigan*, 266 Fed.Appx. 444, 448 (6th Cir. 2008) (stating that a prior “complaint is a nullity, because an amended complaint [supersedes] all prior complaints”).

Therefore, Defendants Bruce Daryl, Keith Anderson, Denmark Dixon, Gary Tillett, and Ronald M. Faris acting as President, CEO and Michael R. Bourque, Jr. acting as CFO of Ocwen Financial Corporation's motions are denied without prejudice because they are moot due to the filing of the Amended Complaint ([ECF No. 20](#)). *See Calvert v. GNC Corp., No. 4:13CV1697 (N.D. Ohio Oct. 30, 2013)* (Pearson, J.).

III. Conclusion

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Plaintiff's Amended Application to Proceed Without Prepayment of Fees ([ECF No. 5](#)) is denied as moot.

Defendants Bruce Daryl, Keith Anderson, Denmark Dixon, and Gary Tillett's Motion to Dismiss Plaintiff's Complaint Under [Fed. R. Civ. P. 12\(b\)\(6\)](#) for Failure to State a Claim ([ECF No. 17](#)) is denied without prejudice. Their Motion to Dismiss Plaintiff's Amended Complaint Under [Fed. R. Civ. P. 12\(b\)\(6\)](#) for Failure to State a Claim ([ECF No. 25](#)) remains pending.

Defendants Ronald M. Faris acting as President, CEO and Michael R. Bourque, Jr. acting as CFO of Ocwen Financial Corporation's Motion to Dismiss Plaintiff's Complaint Under [Fed. R. Civ. P. 12\(b\)\(6\)](#) ([ECF No. 21](#)) is denied without prejudice. Their Motion to Dismiss Plaintiff's Amended Complaint Under [Fed. R. Civ. P. 12\(b\)\(6\)](#) for Failure to State a Claim ([ECF No. 26](#)) remains pending.

IT IS SO ORDERED.

July 22, 2016
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge