

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

WILLIAM CHRISTOPHER SCHROCK, ET AL.

PLAINTIFFS

V.

CASE NO. 4:11CV00411 JMM

PNC BANK, ET AL.

DEFENDANTS

ORDER

Pending before the Court are Defendants' Motions to Dismiss Plaintiffs' Verified Complaint and Quiet Title (#7, #9, #11). For the reasons stated below, the motions are granted and the complaint is dismissed.

Based upon the allegations contained in their complaint and motion, Plaintiffs bring this lawsuit in attempt to void a statutory foreclosure and to avoid an eviction. Plaintiff bring claims based upon the due process clauses of the Fifth and Fourteenth Amendment and bases this Court's jurisdiction upon the Fair Debt Practices Act, the Patriot Act, and the International Money Laundering Abatement and the Financial Antiterrorism Act of 2001.

Defendants contend that Plaintiffs have failed to properly serve them with process as required by the Federal Rules of Civil Procedure, have failed to state a claim based upon Federal Rules of Civil Procedure 8 and 12, and that the doctrines of *res judicata* and *Rooker-Feldman* apply.

A Motion to Dismiss shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no


genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.’ ” *Wilkie v. Depart. Of Health and Human Serv.*, 638 F.3d 944, 949 (8th Cir. 2011) (quoting Fed.R.Civ.P. 56(c)). The Court assumes the factual allegations contained in the complaint are true, but the allegations must supply facts sufficient to state a claim that is plausible on its face. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007).

Based upon the pleadings and the exhibits which are public records, it is clear that there is a state court case which raises the same claims and defenses that are raised in this case and that this state court case is either an on-going case or has been decided by a final order. If the state court case is on-going, the Court declines to exercise jurisdiction based upon the *Younger* abstention doctrine. If a final order has been entered in the state court case, the Court declines to exercise its jurisdiction based upon the *Rooker-Feldman* doctrine.

Moreover, to the extent that Plaintiffs are attempting to make a 42 U.S.C. § 1983 claim, they have failed to name a state actor as a defendant. Finally, the Court lacks jurisdiction based upon lack of diversity. Plaintiff and Defendant Wilson & Associates are both Arkansas residents. *See* 28 U.S.C. § 1332(a)(1).

Based upon the lack of jurisdiction, the complaint is dismissed and the Clerk’s defaults entered against PNC Bank and National City Mortgage are rendered void.

IT IS SO ORDERED THIS 7 day of July, 2011.



James M. Moody
United States District Judge