

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL ‘O’ JS-6

Case No. 2:17-cv-02516-CAS (FFMx) Date July 12, 2017

Title MARIA URQUIZA V. WESTERN PROGRESSIVE, LLC. ET AL.

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS):

ORDER TO SHOW CAUSE WHY THIS ACTION SHOULD NOT
BE DISMISSED FOR LACK OF PROSECUTION AS TO
DEFENDANT WESTERN PROGRESSIVE, LLC (Issued June 12,
2017, Dkt. 18)

OCWEN’S MOTION TO DISMISS (Filed July 7, 2017, Dkt. 20)

The Court finds this motion appropriate for decision without oral argument. See Fed. R. Civ. P. 78; C.D. Cal. Local Rule 7-15. Accordingly, the hearing date of August 7, 2017, is vacated, and the motion is hereby taken under submission.

On March 1, 2017, plaintiff Maria Urquiza, proceeding pro se, filed the instant action in the Los Angeles County Superior Court against defendants Western Progressive, LLC; “Ocwen Mortgage [sic] Servicing;” and Does one through ten. Dkt. 1-1 (“Compl.” or “Complaint”).

On March 31, 2017, Ocwen Loan Servicing, LLC (“Ocwen”)¹ filed a notice of removal to the United States District Court for the Central District of California. Dkt. 1.

¹ Ocwen contends that it has been erroneously sued as Ocwen Mortgage Servicing.

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On April 3, 2017, Ocwen filed a certificate of service showing that Ocwen served copies of its Notice of Removal and accompanying documents via mail to Urquiza’s address.²

On April 7, 2017, Ocwen filed a motion to dismiss the complaint pursuant to Rule 12(b)(6). Dkt. 8. Plaintiff did not file an opposition. On May 10, 2017, the Court granted Ocwen’s motion to dismiss in light of plaintiff’s failure to file an opposition and plaintiff’s failure to meet the pleading standard of Federal Rule of Civil Procedure 8(a). Dkt. 15. The Court ordered plaintiff to “file an amended complaint within twenty-one (21) days of the date of this order.” *Id.* Thus, plaintiff was required to file any amended pleading no later than May 31, 2017.

On June 12, 2017, the Court ordered plaintiff to show cause no later than July 3, 2017, why this action should not be dismissed as against Western Progressive, LLC. Dkt. 18. On June 13, 2017, Western Progressive, LLC filed a response to the Court’s order to show cause, asserting that it is only a nonmonetary party to this action. Dkt. 19. On March 30, 2017, before this case was removed, Western Progressive, LLC, filed a declaration of non-monetary status. Dkt. 19-1. “When a trustee under a deed of trust files a declaration of non-monetary status, the party is transformed into a ‘nominal’ party, thus excusing it from participating in the action.” Hafiz v. Greenpoint Mortg. Funding, Inc., 652 F. Supp. 2d 1050, 1052 (N.D. Cal. 2009), aff’d sub nom. Hafiz v. Greenpoint Mortg. Funding, 409 F. App’x 70 (9th Cir. 2010). If plaintiff objected to Western Progressive, LLC being treated as a non-monetary party, she was required to file any objection within 15 days of Western Progressive, LLC’s declaration. See Cal. Civ. Code § 2924(c). To date plaintiff has not filed any objection to treating Western Progressive, LLC as a nominal party. Thus, Western Progressive, LLC is not required to participate in this action. Any dismissal of the claims against Ocwen would warrant dismissal as against Western Progressive, LLC. See Wilson v. Chase Home Fin., Case No. 11-cv-07067-RGK, 2011 WL 5173022, at *3 n. 2 (C.D. Cal. Oct. 28, 2011) (noting that dismissal of non-monetary parties is appropriate where the underlying claims against the defendants are dismissed with prejudice).

² Plaintiff’s complaint listed the Subject Property as her address. Ocwen appears to have served its removal documents upon that address.

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To date, plaintiff has not filed any amended pleadings, nor has plaintiff filed a response to the Court’s order to show cause. In its May 10, 2017 order, the Court informed plaintiff that a failure to file amended pleadings “*shall* result in dismissal with prejudice.” Id. (emphasis added).

In light of the foregoing, this action is **DISMISSED with prejudice** in its entirety. Ocwen’s pending motion to dismiss is **DENIED as moot**.

IT IS SO ORDERED.

Initials of Preparer 00 00
CMJ