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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUBEN ESCARENO,
Plaintiff,
v.
WELLS FARGO, N.A., et al.,
Defendants.

) 1:08-cv-1945 OWW SMS
)
) SCHEDULING CONFERENCE ORDER
)
) Discovery Cut-Off: 3/12/10
)
) Non-Dispositive Motion
) Filing Deadline: 3/26/10
)
) Dispositive Motion Filing
) Deadline: 4/12/10

Settlement Conference Date:
3/30/10 10:00 Ctrm. 7

Pre-Trial Conference Date:
8/23/10 11:00 Ctrm. 3

Trial Date: 9/21/10 9:00
Ctrm. 3 (JT-3 days)

I. Date of Scheduling Conference.
April 1, 2009.

II. Appearances Of Counsel.
Nocos Law Firm by Reuben L. Nocos, Esq., appeared on behalf
of Plaintiff.

Severson & Werson by Jon D. Ives, Esq., appeared on behalf
of Defendants Wells Fargo Bank, N.A., Wells Fargo Home Mortgage,
a division of Wells Fargo Bank, N.A., and HSBC Bank USA, N.A.

1 Lawrence D. Harris, Esq., appeared on behalf of Defendant
2 First American Loanstar Trustee Services.

3 III. Summary of Pleadings.

4 1. Plaintiff Ruben Escareno will be filing an amended
5 complaint on or before April 1, 2009. See Docket No. 19. The
6 Defendants will file responses on or before April 20, 2009. See
7 *id.* Accordingly, the parties cannot properly summarize the
8 factual and legal contentions in the Plaintiff's complaint at
9 this time. Nonetheless, it is anticipated that the primary
10 factual and legal contentions will be that the Defendants
11 misrepresented or concealed facts about a \$361,600 loan the
12 Plaintiff obtained in October, 2005, from Defendant Wells Fargo
13 Bank, N.A. to purchase a home in Ceres, California, and that the
14 Defendants failed to provide required disclosures in connection
15 with the loan.

16 2. It is anticipated that the Plaintiff will request a
17 declaration that the Defendants lack authority to foreclose on
18 the Ceres property used to secure the 2005 loan; will seek
19 damages; and will seek attorney fees. It is anticipated that the
20 Defendants will request that the Plaintiff take nothing.

21 IV. Orders Re Amendments To Pleadings.

22 1. Plaintiff Ruben Escareno will be filing an amended
23 complaint on or before April 1, 2009. See Docket No. 19. The
24 Defendants will file responses on or before April 20, 2009. See
25 *id.*

26 V. Factual Summary.

27 A. Admitted Facts Which Are Deemed Proven Without Further
28 Proceedings.

1 1. Plaintiff Ruben Escareno is an individual resident
2 of the Eastern District of California, Fresno Division, who
3 purchased a single family residence in Ceres, California.

4 2. Defendant Wells Fargo Bank, N.A., is a corporation
5 licensed to do commercial banking business in the State of
6 California.

7 3. Wells Fargo Home Mortgage is a division of Wells
8 Fargo Bank, N.A.

9 4. HSBC Bank USA, N.A., is a corporation licensed to
10 do commercial banking business in the State of California.

11 5. First American Loanstar Trustee Services is a
12 corporation licensed to do business in the State of California.

13 6. During October, 2005, Plaintiff borrowed
14 \$361,600.00 from Defendant Wells Fargo Bank, N.A., to purchase a
15 new single family residence in Ceres, California.

16 7. That loan was secured by a deed of trust
17 encumbering the residence.

18 8. Plaintiff Escareno defaulted on the loan.

19 9. The Notice of Default was recorded in March, 2008.

20 10. Defendant First American Loanstar Trustee Services
21 was substituted in as the trustee under the deed of trust in
22 April, 2008.

23 11. A Notice of Trustee's Sale was recorded August 1,
24 2008.

25 B. Contested Facts.

26 1. All remaining facts are disputed.

27 VI. Legal Issues.

28 A. Uncontested.

1 1. Jurisdiction exists under 28 U.S.C. § 1331.

2 2. Venue is proper under 28 U.S.C. § 1391.

3 3. The parties agree that the substantive law of the
4 State of California governs supplemental claims. Federal law
5 governs any claims brought with regard to the loan transaction
6 insofar as specific Federal statutes apply.

7 B. Contested.

8 1. Whether and to what extent any loan from
9 Defendant, Wells Fargo Bank, N.A., to Plaintiff is valid and
10 enforceable.

11 2. Whether and to what extent Plaintiff is entitled
12 to any remedies sought by the Complaint.

13 3. Whether and to what extent defenses asserted by
14 the Defendants can be proved by a preponderance of the evidence.

15 4. If Plaintiff prevails, the nature and extent of
16 any damages.

17 5. Whether and to what extent foreclosure of the real
18 property has been validly conducted in accordance with the
19 requirements of law.

20 VII. Consent to Magistrate Judge Jurisdiction.

21 1. The parties have not consented to transfer the
22 case to the Magistrate Judge for all purposes, including trial.

23 VIII. Corporate Identification Statement.

24 1. Any nongovernmental corporate party to any action in
25 this court shall file a statement identifying all its parent
26 corporations and listing any entity that owns 10% or more of the
27 party's equity securities. A party shall file the statement with
28 its initial pleading filed in this court and shall supplement the

1 statement within a reasonable time of any change in the
2 information.

3 IX. Discovery Plan and Cut-Off Date.

4 1. The parties shall file their initial disclosures within
5 60 days following a ruling on any motion to settle the pleadings.

6 2. The parties are ordered to complete all discovery on or
7 before March 12, 2010.

8 3. The parties are directed to disclose all expert
9 witnesses, in writing, on or before November 23, 2009. Any
10 rebuttal or supplemental expert disclosures will be made on or
11 before December 22, 2009. The parties will comply with the
12 provisions of Federal Rule of Civil Procedure 26(a)(2) regarding
13 their expert designations. Local Rule 16-240(a) notwithstanding,
14 the written designation of experts shall be made pursuant to F.
15 R. Civ. P. Rule 26(a)(2), (A) and (B) and shall include all
16 information required thereunder. Failure to designate experts in
17 compliance with this order may result in the Court excluding the
18 testimony or other evidence offered through such experts that are
19 not disclosed pursuant to this order.

20 4. The provisions of F. R. Civ. P. 26(b)(4) shall
21 apply to all discovery relating to experts and their opinions.
22 Experts may be fully prepared to be examined on all subjects and
23 opinions included in the designation. Failure to comply will
24 result in the imposition of sanctions.

25 X. Pre-Trial Motion Schedule.

26 1. All Non-Dispositive Pre-Trial Motions, including any
27 discovery motions, will be filed on or before March 26, 2010, and
28 heard on May 7, 2010, at 9:00 a.m. before Magistrate Judge Sandra

1 M. Snyder in Courtroom 7.

2 2. In scheduling such motions, the Magistrate
3 Judge may grant applications for an order shortening time
4 pursuant to Local Rule 142(d). However, if counsel does not
5 obtain an order shortening time, the notice of motion must comply
6 with Local Rule 251.

7 3. All Dispositive Pre-Trial Motions are to be
8 filed no later than April 12, 2010, and will be heard on May 17,
9 2010, at 10:00 a.m. before the Honorable Oliver W. Wanger, United
10 States District Judge, in Courtroom 3, 7th Floor. In scheduling
11 such motions, counsel shall comply with Local Rule 230.

12 XI. Pre-Trial Conference Date.

13 1. August 23, 2010, at 11:00 a.m. in Courtroom 3, 7th
14 Floor, before the Honorable Oliver W. Wanger, United States
15 District Judge.

16 2. The parties are ordered to file a Joint Pre-
17 Trial Statement pursuant to Local Rule 281(a)(2).

18 3. Counsel's attention is directed to Rules 281
19 and 282 of the Local Rules of Practice for the Eastern District
20 of California, as to the obligations of counsel in preparing for
21 the pre-trial conference. The Court will insist upon strict
22 compliance with those rules.

23 XII. Motions - Hard Copy.

24 1. The parties shall submit one (1) courtesy paper copy to
25 the Court of any motions filed that exceed ten pages and any
26 motions that have exhibits attached. Exhibits shall be marked
27 with protruding numbered or lettered tabs so that the Court can
28 easily identify such exhibits.

1 XIII. Trial Date.

2 1. September 21, 2010, at the hour of 9:00 a.m. in
3 Courtroom 3, 7th Floor, before the Honorable Oliver W. Wanger,
4 United States District Judge.

5 2. This is a jury trial.

6 3. Counsels' Estimate Of Trial Time:

7 a. 3 days.

8 4. Counsels' attention is directed to Local Rules
9 of Practice for the Eastern District of California, Rule 285.

10 XIV. Settlement Conference.

11 1. A Settlement Conference is scheduled for March 30,
12 2010, at 10:00 a.m. in Courtroom 7 before the Honorable Sandra M.
13 Snyder, United States Magistrate Judge.

14 2. Unless otherwise permitted in advance by the
15 Court, the attorneys who will try the case shall appear at the
16 Settlement Conference with the parties and the person or persons
17 having full authority to negotiate and settle the case on any
18 terms at the conference.

19 3. Permission for a party [not attorney] to attend
20 by telephone may be granted upon request, by letter, with a copy
21 to the other parties, if the party [not attorney] lives and works
22 outside the Eastern District of California, and attendance in
23 person would constitute a hardship. If telephone attendance is
24 allowed, the party must be immediately available throughout the
25 conference until excused regardless of time zone differences.
26 Any other special arrangements desired in cases where settlement
27 authority rests with a governing body, shall also be proposed in
28 advance by letter copied to all other parties.

1 4. Confidential Settlement Conference Statement.

2 At least five (5) days prior to the Settlement Conference the
3 parties shall submit, directly to the Magistrate Judge's
4 chambers, a confidential settlement conference statement. The
5 statement should not be filed with the Clerk of the Court nor
6 served on any other party. Each statement shall be clearly
7 marked "confidential" with the date and time of the Settlement
8 Conference indicated prominently thereon. Counsel are urged to
9 request the return of their statements if settlement is not
10 achieved and if such a request is not made the Court will dispose
11 of the statement.

12 5. The Confidential Settlement Conference

13 Statement shall include the following:

14 a. A brief statement of the facts of the
15 case.

16 b. A brief statement of the claims and
17 defenses, i.e., statutory or other grounds upon which the claims
18 are founded; a forthright evaluation of the parties' likelihood
19 of prevailing on the claims and defenses; and a description of
20 the major issues in dispute.

21 c. A summary of the proceedings to date.

22 d. An estimate of the cost and time to be
23 expended for further discovery, pre-trial and trial.

24 e. The relief sought.

25 f. The parties' position on settlement,
26 including present demands and offers and a history of past
27 settlement discussions, offers and demands.

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1 XV. Request For Bifurcation, Appointment Of Special Master,
2 Or Other Techniques To Shorten Trial.

3 1. The parties do not suggest bifurcation or any other
4 method for shortening trial.

5 XVI. Related Matters Pending.

6 1. There are no related matters.

7 XVII. Compliance With Federal Procedure.

8 1. The Court requires compliance with the Federal
9 Rules of Civil Procedure and the Local Rules of Practice for the
10 Eastern District of California. To aid the court in the
11 efficient administration of this case, all counsel are directed
12 to familiarize themselves with the Federal Rules of Civil
13 Procedure and the Local Rules of Practice of the Eastern District
14 of California, and keep abreast of any amendments thereto.

15 XVIII. Effect Of This Order.

16 1. The foregoing order represents the best
17 estimate of the court and counsel as to the agenda most suitable
18 to bring this case to resolution. The trial date reserved is
19 specifically reserved for this case. If the parties determine at
20 any time that the schedule outlined in this order cannot be met,
21 counsel are ordered to notify the court immediately of that fact
22 so that adjustments may be made, either by stipulation or by
23 subsequent scheduling conference.

24 2. Stipulations extending the deadlines contained
25 herein will not be considered unless they are accompanied by
26 affidavits or declarations, and where appropriate attached
27 exhibits, which establish good cause for granting the relief
28 requested.

1 3. Failure to comply with this order may result in
2 the imposition of sanctions.

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5 IT IS SO ORDERED.

6 Dated: April 1, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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