

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 12–cv–00459–KMT

JAMES P. TATTEN, individually,

Plaintiff,

v.

BANK OF AMERICA CORPORATION,
BANK OF AMERICA, N.A.,
BAC HOME LOANS SERVICING, LP, and

Defendants.

ORDER

This matter is before the court on Plaintiff’s “Motion for Leave to File Amended Pleading” (Doc. No. 34, filed January 6, 2013).

On December 17, 2012, this Court entered its Order granting Defendants’ Renewed Motion to Dismiss. (Doc. No. 32.) This court, however, allowed Plaintiff to file, within twenty days of the Order, a motion to amend the complaint, along with a proposed Amended Complaint asserting only the fraudulent misrepresentation claim and the breach of contract claim related to the loan modification agreement. (*Id.* at 18.)

Contrary to this court’s Order, Plaintiff has filed his motion to amend his complaint, but continues to assert claims against Defendant Moynihan, as well as new claims for “Covenant of Good Faith and Fair Dealing” (Doc. No. 34-1 at 40–43) and “Fraud or Mistake” (*id.* At 43–44).

Therefore, Plaintiff's "Motion for Leave to File Amended Pleading" (Doc. No. 34) is DENIED without prejudice.

On or before **January 17, 2013**, Plaintiff may file a renewed motion to amend his complaint in accordance with this court's Order of December 17, 2012. The court will withhold entering final judgment at this time. If Plaintiff files, on or before January 17, 2013, a renewed motion to amend his complaint to cure the deficiencies and to assert only the fraudulent misrepresentation and breach of contract claims against the Bank of America Defendants, the court will then enter final judgment only if it denies the motion. If Plaintiff files a renewed motion to amend his complaint that does not comply with this court's Order of December 17, 2012, the motion to amend will be denied and final judgment will enter.

Dated this 7th day of January, 2013.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge