

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT FLORIDA
TAMPA DIVISION**

ANTHONY VALENTINE, et al.,

Plaintiffs,

vs.

CASE NO. 8:14-CIV-652-EAK-MAP

BAC HOME LOANS SERVICING,
LP, et al.,

Defendants.

ORDER ON PLAINTIFFS' MOTIONS

This cause is before the Court on the Plaintiffs' amended motion to alter or amend a judgment (Doc. 16), amended motion for relief from judgment or order (Doc. 17) and motions to file electronically (Docs. 21 and 25) and Defendants', Bank of America, N.A., as owner of Countrywide Financial Corporation and Countrywide Home Loans, Inc., and BAC Home Loans Servicing LP, response to the substantive motions (Doc. 19) (hereafter BOA).¹ BOA previously file a motion to dismiss which this Court granted and judgment was entered for all the defendants and the case was closed (Docs. 10 and 12).

BACKGROUND

In BOA's motion to dismiss they set out the background of this case and the Court adopted this recitation:

On January 2, 2007, Plaintiffs obtained a mortgage from Market Street Mortgage Corporation ("Market Street") for \$271,600.00. Plaintiffs failed to comply with the terms of their mortgage, and accordingly, on or about October 16, 2007, Countrywide Home Loans, Inc. ("Countrywide"), the servicer of the loan, initiated

¹The other two named defendants have not appeared in this case yet but the Court finds that the ruling is applicable to them also.

a foreclosure action against Plaintiffs in the Hernando County Circuit Court, Case No.: H27CA2007002114 (the "Foreclosure Action"). *See* Compl., Par. 6; Exhibit C.

On December 17, 2008, a final judgment of foreclosure was entered in Countrywide's favor in the Foreclosure Action. *See* Compl., Par. 7. In the instant action, Plaintiffs argue that this final judgment was improper as it was obtained through a forged assignment of mortgage. Based upon these allegations, Plaintiffs have brought forth the following causes of action: (1) Violation of the Florida Deceptive and Unfair Trade Practices Act (FDUPTA); (2) violations of the Florida Consumer Collection Practices Act ("FCCPA") and Fair Debt Collection Practices Act ("FDCPA"); (3) Civil Conspiracy; (4) Abuse of Legal Process; and (5) violation of the civil Racketeer Influenced and Corrupt Organizations Act (RICO). BOA asserted that the case should be dismissed because it was barred as a compulsory counterclaim to the underlying foreclosure action, it failed to meet the pleading requirements of this Court, it was barred by the *Rooker-Feldman* Doctrine, and the complaint was legally insufficient or fails as a matter of law. The Court adopted the reasoning of the motion and found that the cause of action must be dismissed with prejudice because this action was barred as it was a compulsory counterclaim to the underlying foreclosure action and was barred by the *Rooker-Feldman* Doctrine.

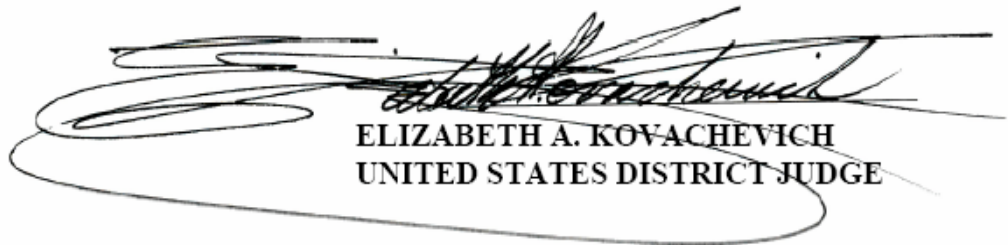
The Plaintiffs now asks this Court to consider arguments that were in their response, which was not filed in the record until after the order was entered granting the motion to dismiss, and they assert those arguments would have defeated the motion to dismiss. The Court disagrees. The Court has reconsidered the matters of the motion to dismiss along with the assertions of the Plaintiffs and still finds that this cause of action was "barred as it is a compulsory counterclaim to the underlying foreclosure action and was barred by the *Rooker-Feldman* Doctrine." The Court cites the response of BOA as persuasive.

Since the Court is denying the substantive motions to alter or amend or for relief from judgment, there will not be an active case in this Court and the Plaintiffs have no need to be allowed to file electronically. Accordingly, it

ORDERED that the Plaintiffs' amended motion to alter or amend a judgment

(Doc. 16), amended motion for relief from judgment or order (Doc. 17) and motions to file electronically (Docs. 21 and 25) be **denied**.

DONE and ORDERED in Chambers, in Tampa, Florida, this 15th day of October, 2014.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to: All
parties and counsel of record