

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DAVID ROSS,

Plaintiff,

v.

Case No. 8:17-cv-783-T-33TBM

SUNTRUST BANK, et al.,

Defendants.

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ORDER

This matter comes before the Court upon consideration of Defendants SunTrust Bank and SunTrust Mortgage, Inc.'s Motion to Strike Jury Demand (Doc. # 19), filed on June 1, 2017. As of this Order, Plaintiff David Ross has not filed a response in opposition and the time for doing so has passed. As such, the Court grants the Motion as unopposed.

Discussion

"The Seventh Amendment provides '[i]n Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.'" Chauffeurs, Teamsters & Helpers, Local No. 391 v. Terry, 494 U.S. 558, 564 (1990) (quoting U.S. Const. amend. VII). A party may waive its right to a jury trial if the waiver is knowing and voluntary. Bakrac, Inc. v. Villager Franchise Sys., Inc.,

164 Fed. Appx. 820, 823 (11th Cir. 2006). However, because of the historical importance of this right, "any seeming curtailment . . . should be scrutinized with the utmost care." Chauffers, 494 U.S. at 565 (internal citations omitted). Furthermore, "because the right to a jury trial is fundamental, courts must indulge every reasonable presumption against waiver." Burns v. Lawther, 53 F.3d 1237, 40 (11th Cir. 1995) (per curiam) (internal quotations omitted).

In his Complaint, Ross demands a jury trial. (Doc. # 1 at 8). However, the mortgage includes a jury waiver provision that reads: "The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note." (Id. at 22, ¶ 25). Ross, by his failure to file a response in opposition, makes no argument that this waiver provision is unenforceable or otherwise ineffective.

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

Defendants SunTrust Bank and SunTrust Mortgage, Inc.'s Motion to Strike Jury Demand (Doc. # 19) is **GRANTED**. The jury demand is **STRIKEN** from the Complaint.

DONE and **ORDERED** in Chambers in Tampa, Florida, this
16th day of June, 2017.

