

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 09-61840-CIV-SEITZ/O'SULLIVAN**

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

1st GUARANTY MORTGAGE CORP., *et al.*,

Defendants.

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**ORDER DENYING MOTIONS TO STAY**

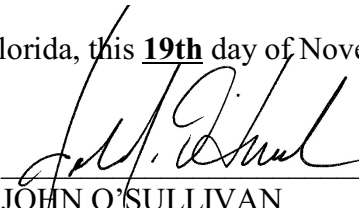
THIS MATTER is before the Court on the Motions To Stay Proceedings [DE-146, DE-147]. Defendant Stephen Lalonde claims that the action should be stayed due to the violation of his due process rights at his current place of incarceration in Broward County, Florida, including the following: (1) apparent inability to access the facility's law library personally and failure of jail personnel to bring him case law he believes would be adequate to prepare filings for the Court; (2) inability to obtain photocopies for exhibits despite making numerous requests; (3) inability to submit filings requiring postage of over 44 cents because the jail does not provide pre-stamped envelopes for materials requiring more than 44 cents of postage; (4) failure to receive any motion file by Defendant Michael Petroski; (5) purportedly hearing only 50% of the Court's last Status Conference on October 12, 2010; and (6) jail corrections officers' removal of legal materials from his cell during a search and disposal of those materials, when the officers did not conduct a search in other cells.

To raise a claim that his constitutional right to access courts have been violated, Lalonde must demonstrate an actual injury. *Lewis v. Casey*, 518 U.S. 343, 354. Moreover, "the injury

requirement is not satisfied by just any type of frustrated legal claim.” *Id.* To suffer an actual injury, the incarcerated litigant’s “legal claim must be an appeal from a conviction for which the inmate was incarcerated, a habeas petition, or a civil rights action.” *Bass v. Singletary*, 143 F.3d 1442 (11<sup>th</sup> Cir. 1998). Lalonde has no standing to raise a claim for violation of the constitutional right to access courts because he is a defendant in a civil proceeding. *See Wilson v. Blankenship*, 163 F.3d 1284, 1291 (11<sup>th</sup> Cir. 1998) (detainee proceeding *pro se* has no standing to raise an access to courts claim with respect to a civil forfeiture case in which he is a defendant); *see also Corker v. Cannon*, 2008 U.S. Dist. LEXIS 33857, at \*\*4-6 (M.D. Fla. Apr. 24, 2008). Accordingly, the Court has no reason to stay the action and will require Lalonde to file a response to Plaintiff’s Motion For Summary Judgment by December 10, 2010, as previously ordered. It is hereby

ORDERED THAT the Motions To Stay Proceedings [DE-146, DE-147] are DENIED.

DONE AND ORDERED in Miami, Florida, this 19th day of November, 2010.

  
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JOHN O’SULLIVAN  
UNITED STATES MAGISTRATE JUDGE

Copies provided to:  
District Judge Patricia Seitz  
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