

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL NATIONAL MORTGAGE)	
ASSOCIATION, etc.,)	
)	
Plaintiff,)	
)	
v.)	No. 09 C 7624
)	
EVOYWEST CHICAGO, LLC, et al.,)	
)	
Defendants.)	

MEMORANDUM

Community Initiative, Inc. ("Community") has just noticed up, for presentment on April 28, its motion for substitution as the plaintiff in this mortgage foreclosure action. That motion, invoking Fed. R. Civ. P. 25(c), is predicated on Community's having acquired all of the right, title and interest of original plaintiff Federal National Mortgage Association ("Fannie Mae").

Because Fannie Mae's exit from the litigation removes the underpinning that originally vested this Court with subject matter jurisdiction over the action, and because Community's appearance on the scene will destroy any prospect of looking to diversity jurisdiction as the basis for continuation of the litigation in this District Court, this Court calls counsel's attention to its recent memorandum opinion and order in FDIC v. Mudd, No. 09 C 4458, 2010 WL 1434321 (N.D. Ill. Apr. 12). As explained there, there is a split of authority among Courts of Appeal as to whether such a post-filing change of parties affects the originally-established federal jurisdiction (our own has not

had occasion to weigh in on the subject). And although this Court has found that an affirmative answer to that question represents the better-analyzed and better-reasoned view, the strong signals to the contrary in cases from our own Court of Appeals in different but analogous situations led this Court to retain jurisdiction in FDIC v. Mudd following an assignment of FDIC's interest comparable to the one involved here.

This Court expects to act on Community's motion on the scheduled April 28 presentment date. In the meantime it has felt that full disclosure called for the issuance of this memorandum.



Milton I. Shadur
Senior United States District Judge

Date: April 22, 2010