

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

THOMAS H. KANE,
Plaintiffs,
v.
BANK OF AMERICA, NATIONAL ASSOCIATION; WELLS FARGO BANK, N.A., d/b/a Wells Fargo Home Mortgage, Defendants.
Case No: 1:13-CV-08053
Hon. Gary Feinerman

DEFENDANTS' MOTION FOR JUDGMENT BASED ON RES JUDICATA

Defendants Bank of America, National Association ("BANA") and Wells Fargo Bank, N.A. d/b/a Wells Fargo Home Mortgage ("Wells Fargo"), by their counsel, respectfully submit this memorandum of law in support of their motion for judgment pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. In support of this Motion, Defendants state as follows:

- 1. Kane's claims in this action are premised on the same set of alleged facts that formed the basis of his defense in a state court foreclosure action, Bank of America, N.A. v. Thomas H. Kane, et al., No. 2011-CH-11338, in the Circuit Court of Cook County, Illinois.
2. On June 2, 2016, the state court in the foreclosure action struck Kane's affirmative defenses with prejudice.
3. On December 15, 2016, the state court granted judgment of foreclosure in favor of BANA and against Kane, over Kane's objections based on the same set of alleged facts underlying his claims in this federal action. The foreclosure judgment set forth the amount the court found to be due to BANA under Kane's mortgage loan and fully disposed of "the interests of all defendants" in the foreclosure action.

4. On June 14, 2017, the state court dismissed the foreclosure action with prejudice, finding that “all amounts due under the subject loan have been paid off in full.”

5. Upon dismissal of the foreclosure action with prejudice, the state court’s judgment of foreclosure became a final and appealable order.

6. As a result of the final orders entered in the state court foreclosure action, Plaintiff’s claims are barred by the doctrine of res judicata

WHEREFORE, for these reasons and the additional reasons set forth in the accompanying Memorandum of Law in Support, Defendants, by their counsel, hereby move for judgment in their favor.

Dated: August 24, 2017

Respectfully submitted,

By: /s/ Tyler D. Alfermann

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CERTIFICATE OF SERVICE

I, Tyler D. Alfermann, an attorney, hereby certify that on August 24, 2017, I caused a true and correct copy of the foregoing **DEFENDANTS' MOTION FOR JUDGMENT BASED ON RES JUDICATA** to be filed and served electronically via the court's CM/ECF system.

/s/ Tyler D. Alfermann _____

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