

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**REGIONS BANK,**

**Plaintiff,**

**v.**

**JAMES D. TOLLE, et al.,**

**Defendants.**

**Case No. 12-cv-1281-DRH-SCW**

**MEMORANDUM AND ORDER**

**HERNDON, Chief Judge:**

Pending before the Court are defendant Jersey State Bank's motion to dismiss Count 1 of plaintiff's complaint pursuant to Rule 12(b)(6) (Doc. 14) and defendant United States of America's motion to dismiss Count 1 (Doc. 16) (collectively, "defendants").

Defendants similarly argue that the allegations of plaintiff's Count 1 for foreclosure of mortgage are insufficient to state a claim for relief under FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6). Most notably, defendants point out that plaintiff and the lender referenced in the subject mortgages are different entities. In response (Docs. 24 and 25), plaintiff seeks leave of the Court to file an amended complaint addressing what it perceives as the meritorious aspects of defendants' respective arguments.

While plaintiff concedes the salient points of defendants' motions regarding what allegations are lacking in the complaint, it does not concede the legal effect of those omissions. Regardless, the Court finds in favor of defendants regarding the necessity of certain critical facts plaintiff omitted from its Count 1. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)). Thus, without commenting as to defendants' specific arguments, the Court **GRANTS** defendants' motions to dismiss Count 1 of plaintiff's complaint (Docs. 14, 16). Plaintiff's Count I is **dismissed without prejudice**. The Court grants plaintiff leave to file an amended complaint. Accordingly, plaintiff shall file its amended complaint by **April 4, 2013**. Upon review of plaintiff's amended allegations, defendants will be able to renew their specific arguments should they feel such arguments are necessary.

**IT IS SO ORDERED.**

Signed this 5<sup>th</sup> day of March, 2013.



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David R. Herndon  
Date: 2013.03.05  
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**Chief Judge**  
**United States District Court**