

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MARTIAN BURTIC,)
)
 Plaintiff,)
 v.) Civil No. 8-381-P-S
)
 KEYBANK NA,)
)
 Defendant.)

**ORDER GRANTING IN FORMA PAUPERIS MOTION
AND ORDERING SERVICE BE MADE BY U.S. MARSHAL**

On November 6, 2008, Martian Burtic filed a complaint in this court seeking relief from a judgment of foreclosure that had been entered against him in the Maine Superior Court, Cumberland County, and affirmed by the Maine Law Court on November 6, 2007. Burtic neither paid the \$350.00 filing fee nor filed a motion to proceed in forma pauperis. In the normal course, the matter would have been referred to me forthwith for an Order requiring that he do one or the other. For some reason no action was ever taken on the complaint until March 9, 2009, when the clerk issued an Order to Show Cause why service had never been made. Burtic responded to the Order to Show Cause by filing a renewed motion for Order for Relief from Summary Judgment and a motion to proceed in forma pauperis. I now grant Burtic's motion to proceed in forma pauperis and terminate the Order to Show Cause. The clerk is directed to forward the summons and the amended complaint to the U.S. Marshal in order for service to be made upon the defendant, KeyBank. It is plaintiff's obligation to provide the clerk with a properly completed summons with the defendant's name and full address by March 31, 2009, in order to accomplish proper service.

A word of explanation is in order. In November of 2006 Burtic attempted to remove a foreclosure action from the Cumberland County Superior Court. (See Keybank National Association v. Burtic, 2:06-CV-00210- GZS). It appears this case may arise from the same nucleus of operative facts. In any event, that case was ultimately dismissed without prejudice because service was never made upon the numerous defendants named in that action. Pursuant to the procedures then in effect in this court, Burtic would have had to request service of the documents and he never did. However, since Burtic is proceeding in forma pauperis in this new case and District of Maine Local Rule 4 has been abrogated, Burtic no longer has any obligation to request service and service will be made by the U.S. Marshal upon the conferral of in forma pauperis status in accordance with Rule 4 of the Federal Rules of Civil Procedure and Laurence v. Wall, 551 F.3d 92, 94 at n. 1(1st Cir. 2008).

So Ordered.

March 23, 2009

/s/ Margaret J. Kravchuk
U.S. Magistrate Judge