

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE

2014 AUG 26 AM 11:19
101 WEST LOMBARD STREET
BALTIMORE, MARYLAND 21201
(410) 962-0782
CLEAN FAX
AT BALTIMORE

BY _____ DEPUTY

August 25, 2014

MEMO TO COUNSEL RE: Arlene Smith-Scott v. US Bank National Association
As Indenture Trustee For Waterfall Victoria Mortgage
Trust 2011-SBC3
Civil No JFM-14-1157

Dear Counsel¹:

There are a number of pending motions in this case. My rulings are as follows.

1. Swallow's Motion to Dismiss (document 4).

The motion is denied as moot in light of the fact that plaintiff filed an amended complaint.

2. US Bank's Motion for the Appointment of a Receiver (document 8).

The motion is granted. US Bank is entitled to the appointment of a Receiver under the Deed of Trust in light of plaintiff's default. Moreover, in light of the fact that plaintiff has interfered with US Bank's rights under the Assignment of Rents, appointment of a Receiver will provide for the efficient resolution of this litigation. A separate order approving Mitzi Henson as Receiver is being entered herewith.

3. Swallow's Motion for Sanctions (document 16).

The motion is denied. Although, as stated in the next paragraph, I do not believe that plaintiff has stated any viable claim against Swallow, I have concluded that it is in the interest of the expeditious resolution of this litigation that no sanctions be imposed against plaintiff.

4. Swallow's Motion to Dismiss Amended Complaint (document 19).

The motion is granted. Swallow acted entirely within his rights and the rights of his client in sending the letter in question to plaintiffs' tenants. Moreover, as to the claim for negligent misrepresentation, Swallow owed no duty to plaintiff.

¹ I realize that plaintiff is appearing *pro se*. However, in light of the fact that she is a licensed member of the Bar, I believe that it is appropriate for me to address this letter to "Counsel."

5. Plaintiff's Emergency Motion for Preliminary Injunctive Relief (document 21).

The motion is denied. There is no outstanding injunction in any pending case in the Circuit Court for Baltimore County. Moreover, there is no basis whatsoever for granting the injunctive relief sought by plaintiff. Among other things, she has not demonstrated that she is likely to prevail on the merits.

6. Plaintiff's Motion to Dismiss Counterclaim (document 30).

The motion is denied. US Bank has stated legally cognizable claims in their counterclaim. To the extent that plaintiff's position is that an injunction issued in the Circuit Court for Baltimore County prevents the filing of the counterclaim, the argument is without merit because there is no outstanding injunction in a pending case in the Circuit Court for Baltimore County.

7. Plaintiff's Motion for Sanctions (document 28).

The motion is denied. As previously stated, there is no outstanding injunction in any pending case in the Circuit Court for Baltimore County.

8. US Bank's Motion to Strike Second Amended Complaint (document 36).

The motion is granted. Plaintiff neither obtained leave of court nor complied with Local Rule 103.6(c) in filing the proposed second amended complaint.

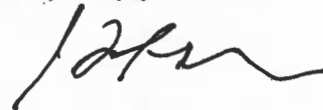
9. Swallow's Motion to Strike Second Amended Complaint (document 40).

The motion is granted. Plaintiff neither obtained leave of court nor complied with Local Rule 103.6(c) in filing the proposed second amended complaint.

Enclosed is a scheduling order.

Despite the informal nature of this letter, it should be flagged as an opinion and docketed as an order.

Very truly yours,



J. Frederick Motz
United States District Judge