

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

CHAMBERS OF  
J. FREDERICK MOTZ  
UNITED STATES DISTRICT JUDGE

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August 26, 2016

MEMO TO COUNSEL RE: James Orazi, et al. v. BAC Home Loans Servicing, LP  
Civil No. JFM-15-1520

Dear Counsel:

I have reviewed the memoranda submitted in connection with plaintiffs' motion for leave to file first amended complaint. The motion (document 43) is denied. More than one year passed between the institution of this action and the filing of the motion. In the interim public and private resources were expended in holding a settlement conference before a magistrate judge. Under these circumstances I find that defendants would be prejudiced by the filing of a first amended complaint.

Moreover, the granting of the motion would be futile to at least most of the asserted claims. No facts are stated that would support a claim of fraud under *Twombly*. Moreover, the claims would not relate back and would be barred by limitations.

Finally, the claims against Rushmore, US Bank, and "the Trust" fail. Rushmore and US Bank are not covered by MCALA and the FDCPA, and "the Trust" do not engage in any collection activity. The asset is held by the Trustee and not by the Trust.

A conference call will be held on September 8, 2016 at 4:45 p.m. to discuss the appropriate schedule in this case. I ask counsel for plaintiff to initiate the call.

Enclosed is a tentative scheduling order with approximate dates for your information. Please consult with one another before the call and be prepared to discuss whether you would like to participate in a settlement conference either before or after the completion of discovery, any changes to the dates in the form scheduling order, and whether there is unanimous consent to proceed before a U.S. Magistrate Judge for all proceedings.

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

U.S. DISTRICT COURT  
BALTIMORE, MD  
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FILED