

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

D. MONTGOMERY,

Plaintiff,

CIVIL ACTION NO. 10-11729

v.

DISTRICT JUDGE JULIAN A. COOK

FREDDIE MAC, CITIMORTGAGE,
ABN AMRO MORTGAGE GROUP, INC.,
GTJ CONSULTING, LLC,
ROSS TOWING AND USED AUTO PARTS, and
24261 Evergreen Road, Southfield, MI,

MAGISTRATE JUDGE MARK A. RANDON

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO EXCLUDE TRANSCRIPT OF
DEBTOR'S EXAMINATION OF DUANE MONTGOMERY DATED APRIL 5, 2011
(DKT. NO. 84)**

On April 13, 2012, Defendants Freddie Mac and CitiMortgage filed Motions to Dismiss and for Summary Judgment. (Dkt. Nos. 72 and 73). Attached to their motions was the Debtor's Examination of Plaintiff Duane Montgomery.

Before the Court is Plaintiff's Motion to Exclude Transcript of Debtor's Examination Dated April 5, 2011. (Dkt. No. 84). Plaintiff argues that the Debtor's Examination is inadmissible pursuant to MCL §600.6110. Freddie Mac and CitiMortgage filed a Response on June 6, 2012. (Dkt. No. 88). Defendant GTJ Consulting, LLC concurs in the Response. (Dkt. No. 90).

MCL §600.6110(3) says:

A party or witness examined under these provisions may not be excused from

answering a question on the ground that his answer will tend to show him guilty of the commission of a fraud, or prove that he has been a party or privy to, or knowing of a conveyance, assignment, transfer, or other disposition of property for any purpose, or that he or another person claims to have title as against the judgment debtor or to hold property derived from or through the judgment debtor, or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in his behalf. *But an answer cannot be used as evidence against the person so answering in any criminal proceeding or action, except for perjury in making the answer.*

(Emphasis added). This statute does not apply; the action pending before the Court is not a criminal proceeding or action. Accordingly, Plaintiff's motion is **DENIED**.

IT IS ORDERED.

s/Mark A. Randon

Mark A. Randon

United States Magistrate Judge

Dated: August 8, 2012

Certificate of Service

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, August 8, 2012, by electronic and/or ordinary mail.

s/Melody Miles

Case Manager