

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Angela Bingham and Mattie Williams,

Plaintiffs,

v.

Case No. 10-11917

Bank of America, NA, *et al.*,

Honorable Sean F. Cox

Defendants.

ORDER DENYING
PLAINTIFFS' REQUEST TO ADJOURN MOTION HEARING

On April 7, 2010, Plaintiffs filed this action against Defendants Bank of America, NA (“BOA”) and The Department of Housing and Urban Development (“HUD”) in Oakland County Circuit Court. Defendants removed the action to this Court on May 12, 2010.

On May 17, 2010, Defendants filed the instant motion. Defendants ask the Court to dismiss Plaintiffs’ claims, pursuant to FED. R. CIV. P. 12(b)(6). Defendants’ further assert that, should the Court choose to treat the motion as a motion for summary judgment, they would be entitled to summary judgment.

The Court set the motion for hearing on August 5, 2010.

On July 16, 2010, Plaintiffs filed a response to the motion. (Docket Entry No. 7). In that response, Plaintiffs state that they served Defendants with interrogatories on July 9, 2010, and have not yet received the answers. Plaintiffs ask this Court to adjourn the motion hearing so they will have the benefit of Defendants’ answers. Specifically, Plaintiffs assert that they need “Defendants’ ‘System Notes’ which would show the dialogue between the parties.” (Pls.’ Resp.

Br. at 1 & 3).

This Court has already adjourned the motion hearing from August 5, 2010, until August 26, 2010, and declines Plaintiff's request to further adjourn the hearing. Defendants' motion is brought pursuant to FED. R. CIV. P. 12(b)(6) and this Court does not intend to convert the motion into a motion for summary judgment under FED. R. CIV. P. 56(c). In addition, in light of the adjournment to August 26, 2010, Plaintiffs should receive the discovery response at issue in advance of the hearing.

Accordingly, IT IS ORDERED that Plaintiffs' request to adjourn the August 26, 2010 hearing is DENIED. The hearing shall proceed as scheduled.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: July 28, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 28, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager