UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

TATIA	HARDY,
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Plaintiff,		
,		Case No. 15-11896
V.		
GREEN TREE SERVICING, LLC,		Hon. John Corbett O'Meara
Defendant.	/	
	/	

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS AND DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT

Before the court are Defendant's motion to dismiss, filed June 2, 2015, and Plaintiff's motion to amend the complaint, filed August 7, 2015. Plaintiff has not filed a response to Defendant's motion to dismiss; Defendant opposes Plaintiff's motion to amend.

This is a wrongful foreclosure case. Defendant seeks dismissal because, among other well-supported reasons, Plaintiff's claims are barred by judicial estoppel and because the redemption period has expired. Plaintiff has failed to respond to Defendant's motion. The court agrees that Plaintiff's claims are barred by judicial estoppel: she failed to disclose these claims during her 2014 Chapter 7 bankruptcy proceeding. See White v. Wyndham Vacation Ownership, 617 F.3d

472, 478 (6th Cir. 2010); Lewis v. Weyerhaeuser Co., 141 Fed. Appx. 420, 424-25

(6th Cir 2005). In addition, Plaintiff's property rights have been extinguished as a

result of the expiration of the redemption period. See Conlin v. Mortgage Elec.

Reg. Sys., Inc., 714 F.3d 355, 359-60 (6th Cir. 2013).

Plaintiff's motion to amend, which seeks to add the Federal National

Mortgage Association as a party, does not cure these or the other fatal flaws in her

complaint, which are detailed in Defendant's motion. As a result, Plaintiff's

motion to amend is futile.

IT IS HEREBY ORDERED that Defendant's motion to dismiss is

GRANTED and Plaintiff's motion to amend is DENIED.

s/John Corbett O'Meara United States District Judge

Date: September 29, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, September 29, 2015, using the ECF system.

> s/William Barkholz Case Manager

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