

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Rebecca C. Robinson, et al.,

Plaintiffs,

v.

ORDER

Civil No. 11-2284 (MJD/LIB)

Bank of America, N.A., et al.,

Defendants.

William B. Butler, Butler Liberty Law, LLC, Counsel for Plaintiffs.

Alan H. Maclin, Mark G. Schroeder and Benjamin E. Gurstelle, Briggs and Morgan, P.A., Counsel for Lender/Service Defendants Bank of America, N.A., BAC Home Loans Servicing, LP, Mortgage Electronic Registration Systems, Inc., Merscorp, Inc., Wells Fargo Bank, N.A., Federal National Mortgage Association, U.S. Bank, N.A., and The Bank New York Mellon.

Charles F. Webber and Trista M. Roy, Counsel for Wells Fargo Bank, N.A.

This matter is before the Court on Plaintiffs' motion to stay proceedings in this case pending the appeal of five similar cases before the Eighth Circuit Court of Appeals.

Plaintiffs argue that the Court has the authority to stay proceedings in this case incidental to its inherent authority to control its docket. Landis v. North America Co., 299 U.S. 248, 254-55 (1936). Plaintiffs further assert that in

determining the propriety of a stay, the Court should weigh the competing interests of the parties, and the hardship or inequity a party may suffer if a stay is granted. CMAX, Inc. v. Hall, 300 F.2d 265, 268 (9th Cir. 1962). In addition, according to Plaintiffs, the Court need not consider the likelihood of success on appeal or whether a bond is necessary in deciding their motion to stay, because those are factors are relevant only if Plaintiffs were seeking a stay pending the appeal of this case.

This Court, as has other Judges in this District, finds that a demonstration of likelihood of success on the merits must be considered in ruling on a motion to stay proceedings based on the outcome of unrelated cases on appeal. See Kent et al. v. Bank of America, N.A., Civil No. 11-2315 (JRT/LIB) (D. Minn. June 26, 2012) (citing Hilton v. Braunskill, 481 U.S. 770, 776 (1987)) (denying similar motion to stay based on determination that plaintiffs did not demonstrate a likelihood of success on the merits); Xiong et al. v. Bank of America, N.A., Civil No. 11-3377 (JRT/LIB) (D. Minn. June 26, 2012) (same).

Here, the Magistrate Judge has issued a Report and Recommendation to this Court, recommending that Defendants' motions to dismiss be granted, as Plaintiffs have failed to state any claims for relief. In addition, the claims asserted

herein are similar to claims asserted in other cases in this District which have already been found to be without merit. See, e.g., Karnatcheva v, JP Morgan Chase, N.A., __ F. Supp.2d __, 2012 WL 1657531, at *5-7 (D. Minn. May 11, 2012).

Defendants argue that in light of the fact that Plaintiffs cannot demonstrate a likelihood of success on the merits, a stay would unjustifiably delay the ultimate resolution of the Plaintiffs' mortgage loan defaults. In this case, the total defaults and overdue amounts attributed to the Plaintiffs are substantial. (See Declaration of Lisa Sanchez, Exs. A and B.) Therefore, Defendants argue that justice delayed is justice denied. On the other hand, Plaintiffs do not assert that denial of the motion to stay will prejudice the Plaintiffs in any way.

In light of the fact that Plaintiffs are not likely to succeed on the merits of their claims, and the prejudice to Defendants if a stay were granted, the Court finds it would not serve the interests of justice to grant the motion to stay.

IT IS HEREBY ORDERED that Plaintiffs' Motion to Stay [Doc. No. 76] IS DENIED.

Date: July 13, 2012

s/ Michael J. Davis
Michael J. Davis
Chief Judge
United States District Court