

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Robert M. DuBe and Cynthia J. DuBe,

Plaintiffs,

v.

ORDER

Civil No. 13-628 ADM/TNL

Federal National Mortgage Association;
Mortgage Electronic Registration System,
Inc.; MERSCORP, Inc.; EverBank; and
also all other persons unknown claiming
any right, title, estate, interest, or lien in the
real estate described in the complaint
herein,

Defendants.

William B. Butler, Esq., Butler Liberty Law, LLC, Minneapolis, MN, on behalf of Plaintiffs.

Michael A. Rosow, Esq., and Aimee D. Dayhoff, Esq., Winthrop & Weinstine, P.A.,
Minneapolis, MN, on behalf of Defendants.

On June 10, 2013, Plaintiffs' Notice of Voluntary Dismissal [Docket No. 37] was approved and Defendants' Motion to Dismiss [Docket No. 26] was denied as moot. Notwithstanding the voluntary dismissal, the Court maintained its jurisdiction over Defendants' complaints of Plaintiffs' Counsel William B. Butler's frivolous and vexatious filings. Counsel for Defendants indicated at the hearing on dismissal, that their overarching concern was with preventing Plaintiffs' attorney from re-filing this case or future frivolous cases against them. See DuBe v. Fannie Mae, 2013 U.S. Dist. LEXIS 81091, at *4-5 (D. Minn. June 10, 2013). On July 8, 2013, Defendants filed their Motion for Sanctions [Docket No. 49] against Plaintiffs' Counsel. On July 11, 2013, the Court requested Defendants submit documentation of attorney costs to support their motion. The Court delayed requiring Mr. Butler's response to the motion

until after Defendants had submitted this documentation. On August 12, 2013, Mr. Butler filed his Response in Opposition [Docket No. 57] and the undersigned United States District Judge took Defendants' Motion for Sanctions under advisement.

In the meantime, on July 2, 2013, the District Court of Minnesota opened an administrative case regarding Mr. Butler, in part because he has failed to pay sanctions ordered in previous cases. In re William B. Butler, Civ. No. 13-mc-49, Order, July 2, 2013. The court appointed Retired Judge James M. Rosenbaum as Special Disciplinary Counsel to investigate all cases where Mr. Butler is an attorney of record, to evaluate Mr. Butler's fitness to appear before this court, and to make recommendations regarding appropriate disciplinary actions or sanctions, if any. Id.

On December 2, 2013, after review of the Special Disciplinary Counsel's report, Chief Judge Michael J. Davis found probable cause that Mr. Butler has violated Minnesota Rules of Professional Conduct. Id., Order to Show Cause, Dec. 2, 2013. Chief Judge Davis ordered Mr. Butler to respond to Special Disciplinary Counsel's report and appointed Judge John R. Tunheim and Judge Joan N. Ericksen to hear and decide the case.

Therefore, although the Court agrees with Defendants that sanctions against Mr. Butler may be appropriate here, the Court believes the hearing before Judge Tunheim and Judge Ericksen will address Defendants' primary concerns. If the disciplinary hearing does not sufficiently address Defendants' concerns in this particular case, Defendants will be permitted to renew their motion at that time.

Based upon the foregoing, **IT IS HEREBY ORDERED** that Defendants' Motion for Sanctions [Docket No. 49] is **DENIED WITHOUT PREJUDICE**.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: December 6, 2013.