

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

JAMES “JIMMY” STEWART

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:15-CV-00051-SA-RP

**CITIMORTGAGE, INC.;
AND 24 ASSET MANAGEMENT CORP.**

DEFENDANTS

FINAL JUDGMENT AND DISMISSAL WITH PREJUDICE CONCERNING ONLY DEFENDANT 24 ASSET MANAGEMENT, CORP.

Presently before the Court is a Motion to Dismiss [Dkt. #111] filed by defendant 24 Asset Management Corporation (“24 Asset”). No responses to the Motion have been filed by any party. As set forth below, the motion is GRANTED.

This cause began as a lawsuit filed by Plaintiff James “Jimmy” Stewart (“Stewart”) against defendant First Tennessee Bank, First Horizon National Corporation (“First Tennessee”). [Dkt. #1]. On September 4, 2015, Stewart filed a Motion for Leave to file an Amended Complaint [Dkt. #28] seeking to add CitiMortgage, Inc. (“CitiMortgage”) and 24 Asset as defendants. On September 14, 2015, the Court granted the motion to amend. [Dkt. #30]. That same day Stewart filed his Amended Complaint [Dkt. #31] naming CitiMortgage and 24 Asset as defendants. In due course, CitiMortgage and 24 Asset each filed Answers.

On September 30, 2015, Stewart and First Tennessee filed a Stipulation of Dismissal with Prejudice concerning the claims among and between these two parties. On November 16, 2016, the Court entered a Final Judgment [Dkt. #50] dismissing First Tennessee with prejudice.

Thereafter, discovery proceeded as to the remaining parties in the case: Stewart, 24 Asset and CitiMortgage.

On September 16, 2016, Stewart filed his motion for leave [Dkt. # 107] to file a second amended complaint. In Stewart's brief [Dkt. #108] supporting this motion, he asked the Court for permission to remove 24 Asset as a defendant in this matter. On September 21, 2016, 24 Asset filed its Motion to Dismiss [Dkt. # 111] and therein moved for its dismissal with prejudice.

On October 24, 2016, the Court granted Stewart's motion to amend his complaint a second time. [Dkt. 121]. That same day, Stewart filed his Second Amended Complaint. [Dkt. # 123]. 24 Asset is not named as a Defendant in the Second Amended Complaint.

Turning now to pending motion to dismiss, the Court notes that no party has filed a response in opposition to 24 Asset's motion to dismiss and the time to do so has long since passed. L.U. CIV. R. 7(b)(4). The Court has also been notified that Stewart and CitiMortgage consent to 24 Asset's dismissal with prejudice. For these reasons, the Court determines that 24 Asset's motion to dismiss should be, and hereby is, granted. The dismissal of Plaintiff's claims against 24 Asset does not end this action as to any other party. Plaintiff's claims against CitiMortgage remain pending.

The Court expressly determines that, pursuant to FED. R. CIV. P. 54(b), there is no just reason for delay and expressly directs that this Final Judgment and Dismissal with Prejudice be entered.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Plaintiff's Complaint, Amended Complaint and all claims asserted, or which could have been asserted by Plaintiff against 24 Asset are hereby dismissed with prejudice with each party to pay their own costs and attorneys' fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the dismissal of Plaintiff's claims against 24 Asset does not end this action as to any other party. Plaintiff's claims against parties other than 24 Asset remain pending.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there being no just reason for delay in dismissing all claims of Plaintiff against 24 Asset, the Court expressly directs that this Final Judgment and Dismissal with Prejudice be entered.

SO ORDERED, this the 16th day of December, 2016.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE