

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSEPH EUGENE PIOVO,
Individually and as Beneficiary of the Vice Roy
United Nations Credit and Commerce
International Blind Trust,

Plaintiff,

v.

ROBERT STONE; ANTONIETA TOVAR-
GUZMAN; MERSCORP, INC.; CBSK
FINANCIAL GROUP, INC.; U.S. BANK
NATIONAL ASSOCIATION, AS TRUSTEE,
SUCCESSOR IN INTEREST TO BANK OF
AMERICA, NATIONAL ASSOCIATION AS
SUCCESSOR BY MERGER TO LASALLE
BANK NATIONAL ASSOCIATION AS
TRUSTEE FOR CERTIFICATE HOLDERS OF
BEAR STERNS ASSET BACKED SECURITIES
I, LLC ASSET BACKED CERTIFICATES,
SERIES 2006-HE8; AND ALL PERSONS
CLAIMING BY, THROUGH OR UNDER SUCH
PERSONS UNKNOWN CLAIMING ANY
LEGAL OR EQUITABLE TITLE, ESTATE,
LIEN OR INTEREST IN THE PROPERTY
DESCRIBED IN THE COMPLAINT ADVERSE
TO PLAINTIFF TITLE THERE TO; Does 1-100,
inclusive,

Defendants.

Case No. 2:13-cv-01922-APG-GWF

ORDER:

- (1) GRANTING MOTION TO STRIKE AMENDED COMPLAINT AND RELATED JOINDERS (Dkts. 65, 66 and 68);**
- (2) GRANTING MOTIONS TO VACATE DEFAULT AND TO DISMISS (Dkts. 23 and 30);**
- (3) GRANTING MOTIONS TO DISMISS (Dkts. 5 and 10);**
- (4) DENYING MOTION TO STRIKE AND OBJECTION TO MAGISTRATE'S REPORT AND RECOMMENDATION (Dkts. 34 and 62); AND,**
- (5) ALLOWING PLAINTIFF TO FILE AN AMENDED COMPLAINT**

This matter comes before the Court on the following motions/issues pending before the Court:

- (1) Merscorp Holdings, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction and For Failure to State a Claim upon Which Relief Can Be Granted Pursuant to Fed. R. Civ. P. Rule 12(b)(6) (Docket 5);

- 1 (2) Motion to Dismiss for Lack of Subject Matter Jurisdiction (Docket 10), filed by U.S.
2 Bank, N.A., as trustee;
- 3 (3) Motion to Vacate Default and Motion to Dismiss (Docket 23) filed by Antonieta
4 Tovar-Guzman;
- 5 (4) Motion to Vacate Default and Motion to Dismiss (Docket 30), filed by Antonieta
6 Tovar-Guzman;
- 7 (5) Plaintiff's Motion to Strike and/or Exclude from Consideration all Exhibits filed by
8 Defendant Merscorp, Inc./Merscorp Holdings, Inc. Under Doc 5 and Doc 6 and
9 Motion for Sanctions (Docket 34), filed by Joseph Eugene Piovo;
- 10 (6) Notice of Objection to Magistrate's Order dated 3/18/14 - Staying Discovery and
11 Objection to Magistrate Judge Presiding Over the Instant Case (Docket 62), filed by
12 Joseph Eugene Piovo;
- 13 (7) Motion to Strike Amended Complaint Filed Without Leave of Court (Docket 65),
14 filed by U.S. Bank, N.A., as trustee;
- 15 (8) Merscorp Holdings, Inc.'s Joinder in Motion to Strike Amended Complaint Filed
16 Without Leave of Court (Docket 65) (Docket 66), filed by Merscorp Holdings, Inc.;
17 and,
18
- 19 (9) Defendant Tovar-Guzman's Joinder to Motion to Strike Amended Complaint filed
20 Without Leave of Court (Docket 65) (Docket 68), filed by Antonieta Tovar-Guzman.

21 The following parties were present at the April 10, 2014 hearing set by the Court regarding
22 the above-referenced motions/issues: Plaintiff Joseph Eugene Piovo appeared in proper person;
23 Defendant MERSCORP Holdings, Inc., appeared by and through its counsel of record, Kent. F.
24 Larsen, Esq., of the law firm of Smith Larsen & Wixom; Defendant U.S. Bank, N.A., as trustee,
25 appeared by and through its counsel of record, David R. Hall, Esq. of the law firm of Parsons Behle
26 & Latimer; and, Defendant Antonieta Tovar-Guzman appeared by and through her counsel of record
27 Shauna S. Brennan, Esq., of the Brennan Legal Counsel Group, PLLC.
28

1 After reviewing the pleadings and briefs on file in this case related to the motions/issues
2 referenced above, and after hearing the arguments of Plaintiff, Ms. Brennan, Mr. Hall and Mr.
3 Larsen at the April 10, 2014 hearing, and good cause appearing therefor,

4 **IT IS HEREBY ORDERED. ADJUDGED AND DECREED** as follows:

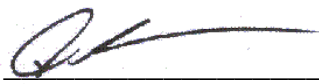
- 5 A. the Motion to Strike Amended Complaint Filed Without Leave of Court (Docket
6 65), Merscorp Holdings, Inc.'s Joinder (Docket 66) and Antonieta Tovar-Guzman's
7 Joinder (Docket 68) are granted, and the Clerk of the Court is ordered and directed
8 to strike from the docket of this case the document entitled "Amended Complaint"
9 (Docket 60), filed by Plaintiff on March 28, 2014;
- 10 B. Antonieta Tovar-Guzman's Motion to Vacate Default and Motion to Dismiss
11 (Dockets 23 and 30) are granted;
- 12 C. Merscorp Holdings, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction
13 and For Failure to State a Claim upon Which Relief Can Be Granted Pursuant to Fed.
14 R. Civ. P. Rule 12(b)(6) (Docket 5) and the Motion to Dismiss for Lack of Subject
15 Matter Jurisdiction (Docket 10), filed by U.S. Bank, N.A., as trustee, are hereby
16 granted;
- 17 D. Plaintiff's Motion to Strike and/or Exclude from Consideration all Exhibits filed by
18 Defendant Merscorp, Inc./Merscorp Holdings, Inc. Under Doc 5 and Doc 6 and
19 Motion for Sanctions (Docket 34), filed by Joseph Eugene Piovo, and the Notice of
20 Objection to Magistrate's Order dated 3/18/14 - Staying Discovery and Objection to
21 Magistrate Judge Presiding Over the Instant Case (Docket 62), filed by Joseph
22 Eugene Piovo are hereby denied;

23
24 **IT IS FURTHER ORDERED. ADJUDGED AND DECREED** that the Magistrate's
25 decision to stay discovery in this matter (Docket 59) is affirmed, and the discovery stay shall remain
26 in place pending further order of this Court;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED. ADJUDGED AND DECREED that Plaintiff may file an amended complaint, which must be filed no later than Tuesday, May 27, 2014, or this Court will issue an order to the Clerk of the Court directing that this matter be closed.

Dated: May 5, 2014.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE