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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

JOSE CAMACHO-VILLA and MICHELLE)
CAMACHO-VILLA,)
)
Plaintiffs,)
)
vs.)
)
GREAT WESTERN HOME LOANS, a)
California corporation; FIRST)
AMERICAN TITLE COMPANY; MORTGAGE)
ELECTRONIC REGISTRATION SYSTEM,)
INC., a Delaware corporation;)
MTDS, INC., a California)
corporation; INDYMAC MORTGAGE)
SERVICES, a division of ONEWEST)
BANK, FBS; and DOES and ROES 1-25)
Individuals, Partnerships, or)
anyone claiming any interest to)
the property described in the)
action,)
)
Defendants.)
)

3:10-CV-210-ECR-VPC

Order

This case arises out of the foreclosure of Plaintiffs' home. Now pending before the Court is Defendant IndyMac Mortgage Services, a division of OneWest Bank, FBS's ("IndyMac") Motion to Expunge Lis Pendens (#60).

I. Background

Plaintiffs filed their complaint (#1 Ex. 1) in the Second Judicial District Court of the State of Nevada in and for the County

1 of Washoe on March 8, 2010. On April 13, 2010, Defendants MERS and
2 IndyMac removed the action to the United States District Court for
3 the District of Nevada via Petition for Removal (#1).

4 Plaintiffs filed their amended complaint (#26) on July 19,
5 2010. By order (#43) on March 23, 2011, the Court granted Defendant
6 IndyMac's motion (#27) to dismiss, dismissing with prejudice all of
7 Plaintiffs' claims against Defendant IndyMac in our jurisdiction.
8 The Court further denied Defendant MERS' motion (#29) to dismiss
9 without prejudice and Plaintiff Jose Camacho-Villa's second motion
10 (#31) to remand.

11 On May 19, 2011, the Court dismissed (#52) Defendants Great
12 Western Home Loans and Meridian Foreclosure Service pursuant to Fed.
13 R. Civ. P. 4(m). By order (#56) on June 23, 2011, the Court
14 dismissed all claims against Defendant MERS remaining in our
15 jurisdiction pursuant to the parties' stipulation (#55).

16 On October 5, 2011, we denied (#58) Plaintiff leave to file an
17 amended complaint.

18 On November 15, 2011, we dismissed (#62) Defendant MTDS, Inc.
19 pursuant to Fed. R. Civ. P. 4(m).

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II. Discussion

22 Nevada statutory law allows a Notice of Pendency or a Lis
23 Pendens to be filed for an action pending in the United States
24 District Court for the District of Nevada when there is "a notice of
25 an action affecting real property, which is pending," in any such
26 court. NEV. REV. STAT. § 14.010(2).

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1 Our previous Order (#43) dismissed all of Plaintiff's claims
2 against Defendant IndyMac - it did not speak to Plaintiff's claims
3 against the other Defendants. As delineated above, Defendants MERS,
4 MTDS, Inc., and Meridian Foreclosure Service have also been
5 dismissed from the case. However, Plaintiffs' claims against
6 Defendant First American Title Company remain. While it is true
7 that Nev. Rev. Stat. § 14.015(3) would require Plaintiffs to
8 establish that they have at least a fair chance of success on the
9 merits in the action should Defendants request a hearing on the
10 notice of pendency, Defendants have not requested such a hearing.
11 As there are still pending claims in this case, the Court is without
12 power to expunge the lis pendens.

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14 IT IS, THEREFORE, HEREBY ORDERED that Defendant IndyMac's
15 Motion to Expunge Lis Pendens is DENIED.

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18 DATED: May 21, 2012.

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20 UNITED STATES DISTRICT JUDGE

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