

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WAYNE P. RUBENSTEIN, et al. : CIVIL ACTION
:
v. :
:
DOVENMUEHLE MORTGAGE, INC., :
et al. : NO. 09-721

ORDER

AND NOW, this 28th day of October, 2009, upon consideration of the plaintiffs' amended complaint (docket entry # 9), defendants' motion to dismiss pursuant to F.R.C.P. 12(b)(6) (docket entry # 10), plaintiffs' response in opposition to the defendants' motion to dismiss (docket entry # 13), defendants' reply brief in support of defendants' motion to dismiss (docket entry # 19), and plaintiffs' sur-reply brief (docket entry # 20), it is hereby ORDERED that:

1. Defendants' motion to dismiss is GRANTED IN PART and DENIED IN PART;

2. Defendants' motion to dismiss plaintiffs' breach of contract claim (Count VI) is DENIED;

3. Plaintiffs' claims for relief under the FCEUA (Count IV) and for unjust enrichment (Count III) are DISMISSED WITH PREJUDICE;

4. Plaintiffs' remaining claims (Counts I, II, V, VII) are DISMISSED WITHOUT PREJUDICE;

5. Plaintiffs' request for leave to amend the amended complaint is DENIED;

6. Plaintiffs' are GRANTED LEAVE to file a motion to amend the complaint with regard to those claims that have been dismissed without prejudice if they do so by November 13, 2009; and

7. The Clerk of Court shall TRANSFER this case from our Active docket to our Civil Suspense docket pending resolution of the anticipated motion to amend the amended complaint.

BY THE COURT:

___\s\Stewart Dalzell