

United States District Court
Southern District of Texas

ENTERED

January 25, 2018

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

INITA JAMES,

Plaintiff,

v.

NATIONSTAR MORTGAGE LLC,

Defendant.

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CIVIL ACTION H-17-3005

ORDER


Pending before the court is a motion to dismiss filed by defendant Nationstar Mortgage LLC. Dkt. 3. Plaintiff Inita James has not responded. Thus, under Local Rule 7.4, the instant motion is deemed unopposed. Having considered the motion, the record, and the applicable law, the court is of the opinion that Nationstar’s motion should be GRANTED and that James’s case be DISMISSED WITH PREJUDICE.

On May 26, 2017, James sued Nationstar in state court asserting multiple claims related to a foreclosure on real property in Houston, Texas. Dkt. 1–2 at 2. Specifically, James claimed that Nationstar violated the Texas Deceptive Trade Practices Act, the Texas Debt Collection Act, and the Federal Debt Collection Practices Act. *Id.* at 6–7. In addition, James sued for wrongful foreclosure as well as “misrepresentation and unjust enrichment.” *Id.* James also sought injunctive relief to stop Nationstar’s efforts to evict her. *Id.* at 8. On October 9, 2017, Nationstar removed to this court and filed the instant motion. Dkts. 1, 3. James has not responded.

Here, Nationstar moves to dismiss under Federal Rule of Civil Procedure 12(b)(6). Dkt. 3. Nationstar argues that James’s claims lack sufficient factual allegations to survive 12(b)(6). *Id.* at 5, 7, 12–19. In addition, Nationstar argues that James cannot recover for wrongful foreclosure because

she failed to plead two essential elements. *Id.* at 5. Further, Nationstar argues that James cannot recover for a DTPA violation because she does not count as a “consumer” under that statute and thus lacks standing. *Id.* at 9. Nationstar also argues that because it does not count as a “debt collector” under the FDCPA, that claim fails. *Id.* at 12. Finally, Nationstar argues that James’s “misrepresentation and unjust enrichment” claim fails to identify a basis for recovery. *Id.* at 14–19. Because the court agrees, Nationstar’s motion is GRANTED and James’s claims are DISMISSED WITH PREJUDICE.

Signed at Houston, Texas on January 25, 2018.



Gray H. Miller
United States District Judge