

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION
Docket No. RE-10-480

NM-CUM-01-30-2015

BANK OF AMERICA,

Plaintiff

v.

ORDER ON PLAINTIFF'S
MOTION TO DISMISS

STEVEN F. DOYON and
TRACY L. DOYON,

Defendants

STATE OF MAINE
Cumberland County Clerk's Office

JAN 30 2015

RECEIVED

Before the court is plaintiff's motion to dismiss the complaint without prejudice.

Plaintiff states it does not want to proceed further without a review of the impact of the Greenleaf decision on this case. See Bank of Am. v. Greenleaf, 2014 ME 89, 96 A.3d 700. Defendants argue they have had a difficult time dealing with plaintiff and ask for a dismissal with prejudice.

The court concludes that the conduct of plaintiff in this case does not rise to the level requiring a dismissal with prejudice. See, e.g., U.S. Bank, N.A. v. Sawyer, 2014 ME 81, 95 A.3d 608.

The following is ordered:

1. Plaintiff's motion to dismiss is granted. Plaintiff's complaint is dismissed without prejudice.
2. No attorney's fees or costs incurred by plaintiff as a result of this lawsuit will be charged to defendants.
3. No late charges for the period during which this lawsuit has been pending will be charged to defendants.
4. If the defendants have incurred any attorney's fees during this lawsuit, counsel for defendants will file within thirty days of the date of this order an affidavit of attorney's fees incurred by defendants. Counsel in his affidavit should address the factors outlined in Nadeau v. Nadeau, 2008 ME 147, ¶ 39, 957 A.2d 198 and Poussard v. Commercial Credit Plan, 479 A.2d 881, 884 (Me. 1984).

3. If plaintiff files a subsequent complaint for foreclosure against these defendants with regard to the mortgage filed in the Cumberland County Registry of Deeds, Book 25979, Page 94, plaintiff's counsel will attach a copy of the complaint in Cumberland RE-10-480 and a copy of this order of dismissal to the subsequent complaint.

The clerk is directed to incorporate this order into the docket by reference.

Dated: January 30, 2015


Nancy Mills
Justice, Superior Court

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