

IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MICHAEL MCCOY,

Plaintiff,

VS.

NEWREZ LLC FKA NEW PENN FINANCIAL,
LLC d/b/a SHELLPOINT MORTGAGE
SERVICING; JAMES STAVOPOULOS, and
SECURE ONE CAPITAL CORPORATION

Defendants.

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CIVIL ACTION NO. SA-21-CV-877-FB

ORDER DENYING DEFENDANTS’ DISMISSAL MOTION AS MOOT

Before the Court is Defendants’ Dismissal Motion filed January 7, 2022 (docket #9). On January 20, 2022, the plaintiff filed Plaintiff’s First Amended Complaint (docket #18). Based on the filing of the amended complaint, the Court finds the Dismissal Motion (docket #9) should be denied.

Accordingly, IT IS HEREBY ORDERED that Defendants’ Dismissal Motion (docket #9) is DENIED AS MOOT WITHOUT PREJUDICE to refile in light of the filing of the Plaintiff’s First Amended Complaint (docket #18).¹ See *Smallwood v. Bank of America*, Civil Action No. 3:11-CV-1283-D, 2011 WL 4941044 at *1 (N.D. Tex. Oct. 17, 2011) (granting leave to amend complaint and denying “motion to dismiss without prejudice as moot”); *Comb v. Benji’s Special Educ. Acad., Inc.*, 745 F. Supp. 2d 755, 773 (S.D. Tex. 2010) (denying as moot motion to dismiss “without prejudice to refile in light of Plaintiffs’ second amended complaint”).

It is so ORDERED.

SIGNED this 3rd day of February, 2022.



FRED BIERY
UNITED STATES DISTRICT JUDGE

¹ On February 3, 2022, defendants filed their Motion to Dismiss Plaintiff’s First Amended Complaint (docket #22).