

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

BARBARA DENNIS,

Plaintiff,

v.

PHH/OCWEN LOAN SERVICING LLC,
DEUTSCHE BANK NATIONAL TRUST
COMPANY, DOES 1-100.,

Defendants.

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Civil Case No. 7:23-cv-00397

JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(f) FEDERAL RULES OF CIVIL PROCEDURE

Plaintiff Barbara Dennis and Defendants PHH Mortgage Corporation (“PHH”) and Deutsche Bank National Trust Company, as Trustee for HarborView Mortgage Loan Trust 2007-2 (“Deutsche Bank”) (hereinafter referred to collectively as the “Parties”), in the above-styled and numbered civil action, file this Joint Discovery/Case Management Plan and state as follows:

1. State where and when the meeting of the parties required by Rule 26(f) was held, and identify the counsel who attended for each party.

McKenna Crisp, counsel for Defendants, and Plaintiff, as pro se, conferred via telephone on December 14, 2023. Joe Rubio, counsel for Defendants, and Plaintiff, as pro se, conferred again via email on May 24, 2024.

2. List the cases related to this one that are pending in any state or federal court with the case number and court.

Plaintiff: Unknown if any other pending cases are related to this one.

Defendants: None at this time.

3. Briefly describe what this case is about.

Plaintiff states: illegal foreclosure of my home in violation of a Temporary Restraining Order (TRO), which defendants had a copy of, but failed to cancel the sale. This was a deliberate action to steal my home. There appear to be over 100,000 other Texas homes

also stolen through similar foreclosure tactics.

The foreclosure attorneys used by PHH/Ocwen are: (MD) Power Default Services, 2300 Lakeview Parkway, Suite 756, Alpharetta, GA. 300009, Phone: 866-960-8299. Email: TrusteeQuote@alrisource.com

Updated address: Suite #700, Office #756. This company stated on July 13, 2023, it is the trustee in the states of AZ, CA, NV, WA, and TX

Updated address: August 11, 2023. Power Default Services (VT), 7730 Market Center Ave. Suite 100, El Paso, TX. 79912. (This updated address came after the illegal foreclosure allegations were filed with the regulatory agency.) Due to these violations of operating in Texas while not being licensed to do business in Texas, no business address. This issue appears to have been corrected by obtaining a business address in Texas. However, this violation renders all foreclosure sales filed prior to their compliance illegal and void. There were other violations such as failure to follow the Texas foreclosure statutes. Thus, these illegal sales must be addressed and victims compensated for the illegal sales.

It appears through court record evidence that each of the 254 Texas counties have illegal foreclosure sales. These are civil and criminal violations of law, fiduciary violations, as well as deliberate theft of property and financial devastation. These include the mortgage payments made from closing with the HUD 1 statement through sale date.

In addition to these issues, there are multiple settlement agreements where defendants waived criminal charges in exchange for correcting the algorithms and other business practices that cause the continued violations. Unfortunately, these violations continue.

The buyer showed up the day after the sale date, at my home, with a three day notice to vacate. This buyer is in violation of Texas Eviction procedures.

I contacted the foreclosure attorneys by phone to report the illegal sale and provided them the buyer's letter to vacate.

They found the TRO in the file and said they would take care of rescinding the sale and refunding the buyer's money. They stated that I did not need to do anything. They would notify me via email when completed. They did.

Defendants state: Defendants deny Plaintiff's allegations set forth above and deny the allegations in Plaintiff's Original Petition. Defendants have filed a motion to dismiss Plaintiff's claims.

4. Specify the allegation of federal jurisdiction.

This Court has original jurisdiction over the Action pursuant to 28 U.S.C. §1332, §1441 and §1446 because: (1) complete diversity exists between Plaintiff and Defendants; and (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

5. Name the parties who disagree and the reasons.

Plaintiff disagrees on the defenses and allegations made by Defendants.

Defendants disagree on the causes of action and allegations made by Plaintiff.

6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

Plaintiff: Additional parties that may be added to the suit, if discovered and when necessary. The foreclosure attorney firm that filed the sale dates and illegally foreclosed on my property. The Sheriffs in the 254 counties may be added. Due to the end of the year, several are retiring at the end of this month and new ones will be installed in January. Therefore, the revised list can be submitted in 2024, if necessary. They may be additional parties demonstrating the foreclosure frauds in their county. They may instead be included as those providing sworn affidavits detailing the illegal sales in their county. (rather than additional plaintiffs). Plaintiff incorporates the additional parties interested in the outcome of this case filed of record on May 24, 2024.

Defendants: None at this time.

7. List anticipated interventions.

Plaintiff: The defendants are given the opportunity to correct all business practices to comply with all local, county, state and Federal laws and to abide by their multiple settlement agreements. The Texas regulatory agencies have jurisdiction to provide oversight, as well as fine, suspend and/or revoke business licenses.

Defendants: None at this time.

8. Describe class-action issues.

None.

9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

Defendants will serve their initial disclosures prior to the scheduling conference on June 5, 2024. The Parties agree that Plaintiff will serve her Initial Disclosures by June 30, 2024.

10. Describe the proposed agreed discovery plan, including:

A. Responses to all the matters raised in Rule 26(f).

a. When and to whom the plaintiff anticipates it may send interrogatories.

Plaintiff has yet to determine when she anticipates serving the Defendants with interrogatories.

b. When and to whom the defendant anticipates it may send interrogatories.

In the event that parties do not settle this matter in the next 30 days, Defendant anticipates serving the Plaintiff with interrogatories.

c. Of whom and by when the plaintiff anticipates taking oral depositions.

To the extent depositions are sought, Plaintiff has yet to determine who she anticipates deposing before the end of the discovery period.

d. Of whom and by when the defendant anticipates taking oral depositions.

To the extent depositions are sought, Defendants anticipate deposing the Plaintiff on or before the end of the discovery period.

e. When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.

The Parties will designate experts and provide expert reports by July 31, 2024.

f. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

No depositions or expert witnesses are anticipated at this time by Plaintiff.

g. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report).

Defendants anticipate deposing any expert witness designated by Plaintiff other than a designation of Plaintiff's counsel on attorney's fees, to the extent Plaintiff

hires counsel. Defendant anticipates completing expert depositions by the deadline in this report.

- 11. If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.**

N/A

- 12. Specify the discovery beyond initial disclosures that has been undertaken to date.**

None at this time.

- 13. State the date the planned discovery can reasonably be completed.**

Discovery can be completed by December 31, 2024 or 30 days before the trial setting, whichever is later.

- 14. Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.**

The parties are engaged in ongoing settlement discussions. The Defendants are currently evaluating the potential options for resolution.

- 15. Describe what each party has done or agreed to do to bring about a prompt resolution.**

Plaintiff states: The defendants will accept responsibility for misconduct, take immediate corrective action, provide restitution for the Texas homeowners who had their homes stolen, along with the financial devastation caused. The homeowners did not just lose their home, but all the monthly payments for years, sometimes decades that were lost at foreclosure sale.

Defendant states: Defendants deny the allegations set forth by Plaintiff, and deny any alleged agreement as set forth by Plaintiff. The Parties have and continue to correspond regularly regarding a potential resolution. Plaintiff emailed a written settlement offer to Defendants, and Defendants are making a good-faith effort to evaluate and respond accordingly. Defendants have in turn provided Plaintiff with a loan modification application to complete and submit, but have yet to receive a response.

- 16. From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable, and state when such a technique may be effectively used in this case.**

At this time, the Parties agree that informal settlement discussions are appropriate and will consider mediation, if necessary.

17. Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.

Plaintiff: Understood that judges can hear jury trials now.

Defendants: Defendants do not consent to trial before a magistrate judge.

18. State whether a jury demand has been made and if it was made on time.

No jury demand has been made.

19. Specify the number of hours it will take to present the evidence in this case.

Plaintiff: Approximately 40 hours for Plaintiff. Presentation of case and closing arguments after defense presentation.

Defendants: 8-14 hours per side.

20. List pending motions that could be ruled on at the initial pretrial and scheduling conference.

Defendants' pending 12(b)(6) Motion to Dismiss.

21. List the other motions pending.

- N/A

22. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.

None at this time.

23. List the names, bar numbers, addresses and telephone numbers of all counsel.

Counsel for Defendant:

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Plaintiff, pro se:

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Mission, Texas 78572

Dated: May 28, 2024

Respectfully submitted,

DYKEMA GOSSETT PLLC

/s/ José M. (Joe) Rubio

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ATTORNEYS FOR DEFENDANTS

/s/ Barbara Dennis (w/ permission)

Barbara Dennis

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Mission, Texas 78572

PRO SE PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon on all counsel of record on May 28, 2024, in compliance with the Federal Rules of Civil Procedure.

Barbara Dennis

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Mission, Texas 78572

PRO SE PLAINTIFF

/s/ José M. (Joe) Rubio

José M. (Joe) Rubio

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