

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

BANK OF AMERICA, N.A., *ET AL.*,

Plaintiffs,

v.

ELLIOTTE P. COLEMAN, *ET AL.*,

Defendants.

Case No. 2014 CA 007956 R(RP)
Judge Robert R. Rigsby

ORDER

Before the Court is Plaintiff Carrington Mortgage Services, LLC's ("Carrington") *Motion for Prefiling Injunction*, filed September 16, 2020. The Motion is unopposed by Defendant Elliotte Coleman. Upon consideration of the motions, replies, and the entire record herein, the Court **GRANTS** the Motion for the reasons set forth below.

BACKGROUND

On December 1, 2000, Defendant Coleman was the owner of the property located at 2730 Knox Terrace SE, Washington, DC 20020 ("Property") and, on December 1, 2000, encumbered the Property with a Deed of Trust to the amount of \$146,179.00, which was recorded with the Recorder of Deeds for the District of Columbia on December 8, 2000. Compl. ¶¶ 1, 6-7. In April 2005, Coleman defaulted on the Note, the Note was accelerated, and Mr. Coleman owed \$298,399.00 as of January 23, 2015. Compl. ¶¶ 10-12. The Property was sold in a foreclosure sale on March 19, 2019 and this Court granted the Plaintiffs' *Motion to Ratify Foreclosure Sale* June 17, 2019.

On June 28, Coleman filed an *Opposition to Motion to Ratify the Sale*, which was denied as moot. On June 30, 2019, Coleman filed an *Amended Opposition to Motion to Ratify the Sale*, which was denied. On July 11, Coleman filed a *Motion for Judge Robert R. Rigsby to Immediately Recuse Himself from the Case*, which was denied. On August 25, Coleman file a *Motion Requesting the Court to Alter or Amend its July 29, 2019 Judgement*, which was denied. On August 12, Coleman filed a *Motion for Relief from Judgment*, which was denied. Furthermore, Coleman took this matter to both bankruptcy court, the District of Columbia Court of Appeals, and the United States District Court for the Western District of North Carolina, none of which resulted in a stay of this case that affects its current posture. Pl. Mot., at 6-7. On September 24, 2020, Coleman filed an appeal of this Court’s Order denying his August 12, 2020 *Motion for Relief from Judgment*; that case is still pending.

STANDARD OF REVIEW

A Court weighs the following factors when deciding whether a prefiling injunction against an allegedly vexatious party is appropriate: (i) the party’s history of litigation and in particular whether it entailed vexatious, harassing, or duplicative lawsuits; (ii) the party’s motive in pursuing the litigation; (iii) whether the party is represented by counsel; (iv) whether the party has caused needless expense to other parties or has posed an unnecessary burden on the courts and their staff; and (v) whether other sanctions would be adequate to protect the courts and other parties. *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2nd Cir. 1986). The fundamental question facing the Court is “whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties.” *Id.*

ANALYSIS

Mr. Coleman has engaged in a pattern of motions practice that demands examination with the pretext of a potential pre-filing injunction under the framework set out in *Safir*.

First, we look at Coleman's history of litigation and whether it is vexatious. Plaintiff Carrington states that Coleman's litigation has been harassing and duplicative in this case, having "filed over eight motions since judgment was obtained ... none of which have been resolved in Coleman's favor." Pl. Mot., at 6. Notably, Coleman has gone out of the jurisdiction to seek a federal judge's order to stay these proceedings, an attempt that resulted in dismissal. *Id.* Vexatious litigation occurs when a party abuses the judicial process by bombarding the Court with frivolous and meritless filings, which appears to be exactly what Coleman has done throughout this matter.

Second, we examine Coleman's motive behind his litigation. Carrington believes that "the content and nature of Coleman's motions in this case, all of which rehash arguments already rejected by this Court, suggest Coleman actions [sic] are in bad faith." The Court cannot discern how filing the same arguments unsuccessfully over and over is anything less than a delay tactic and bad faith conduct on Coleman's behalf.

Third, we see whether Coleman is represented by Counsel. He is not, but his ability to navigate the courts in multiple jurisdictions and play legal checkers through his motions practice indicates he is an intelligent individual and fully aware of the implications and consequences of his actions before this Court and others. Coleman's understanding of the implications of his filings largely negates the latitude afforded other, less-informed *pro se* litigants' voluminous motions practice.

Fourth, we turn to whether Coleman's motions practice "has caused needless expense to other parties or has posed an unnecessary burden on the courts and their staff." *Safir*, 792 F.2d, 24.

Newton's aptly named Third Law of Motion states that for every action there is an equal and opposite reaction, as this is true of motions practice. Every filing of Coleman's has and continues to require Carrington's counsel to review and draft an opposition (an expense then passed onto their client, Carrington), followed by judicial staff that review, both Coleman and Carrington's filings side by side and draft an order. This has been repeated over and over. Certainly, resources are being unnecessarily expended on Coleman's stream of meritless filings.

Finally, we ask whether there are alternative sanctions to a prefiling injunction that would prevent Coleman from engaging in vexatious conduct. The Court believes a prefiling injunction is the ideal sanction as there is essentially nothing left to address in this case and should Coleman have a legitimate issue to bring before the Court, he need only ask the Court's leave to do so. This Court is confident that granting Carrington's injunction will not prejudice Coleman in any way.

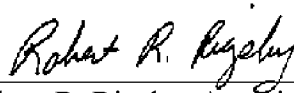
CONCLUSION

Accordingly, and based on the entire record herein, it is this the 13th day of November, 2020, hereby

ORDERED that Plaintiff Carrington's *Motion for Prefiling Injunction* is **GRANTED**; it is further

ORDERED that Defendant Elliotte P. Coleman, other than to file a *Motion for Leave to Approve Filing*, is hereby barred from filing pleadings in this case without first obtaining an Order from this Court approving the filing.

SO ORDERED.



Robert R. Rigsby, Associate Judge
Superior Court of the District of Columbia

Copies to Counsel of Record via CaseFileXpress and Mail to:

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