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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, ON BEHALF OF
THE HOLDERS OF THE ASSET BACKED SECURITIES
CORPORATION HOME EQUITY LOAN TRUST,
SERIES MO 2006-HE6 ASSET BACKED PASS-
THROUGH CERTIFICATES, SERIES MO 2006-HE6,

Plaintiff,

Case No. 10-157-CI-13

v.

PATRICIA ANN HINES, *et. al.*

Defendants.

_____ /

ORDER GRANTING MOTION TO DISMISS AMENDED COMPLAINT

THIS CAUSE, having come before the Court on April 4, 2011 on Defendant's Motion to Dismiss Amended Complaint, and the Court, having reviewed the Motion, heard the arguments of counsel, and being duly advised in the premises, it is hereby;

ORDERED AND ADJUDGED as follows:

1. Plaintiff failed to comply with this Court's September 15, 2010 Order dismissing the original Complaint, which directed that certain deficiencies be cured upon the filing of an Amended Complaint. As such, in the motion, Defendant sought dismissal without prejudice and without leave to amend, relying on Fla.R.Civ.P. 1.420 and a line of cases authorizing dismissal with prejudice for failure to amend within the time allotted by the court. In response, Plaintiff admitted that dismissal was proper given the pleading deficiencies but requested leave to amend. Plaintiff further agreed to pay \$375.00 to Defendant's counsel for attorneys' fees incurred in the prosecution of the motion, as a sanction for Defendant having to prosecute a motion to dismiss that, but for Plaintiff's failure to comply with the Court's Order, would not have been necessary.

2. At this point in the proceedings, the Court deems a sanction of \$375.00 to be appropriate and an outright dismissal to be excessive. As such, the motion be and is hereby GRANTED, and Plaintiff's Amended Complaint is hereby DISMISSED, but with leave to amend.

3. Plaintiff shall file a Third Amended Complaint by April 20, 2011. Said amendment shall cure the deficiencies that gave rise to dismissal, including lack of verification, failure to plead capacity, and failure to plead ultimate facts explaining the inconsistencies between the body of the Amended Complaint and the exhibits thereto. Absent amendment, the Amended Complaint shall stand as dismissed without further Order.

4. To the extent these deficiencies are not appropriately cured upon additional amendment, the Court will entertain more significant sanctions, including dismissal with prejudice.

5. The Court deems the \$250.00 hourly rate of Mark P. Stopa, Esq. to be reasonable, as were the 1.5 hours of time prosecuting the motion, particularly since Plaintiff's counsel consented to the payment of said \$375.00 in open Court. As such, the Court directs Plaintiff to remit payment of \$375.00 to Mark P. Stopa, P.A., Trust Account within fifteen days.

6. Defendant's Motion to Strike the Second Amended Complaint is GRANTED. Said pleading is a nullity and is STRICKEN.

DONE AND ORDERED in Chambers in St. Petersburg, Pinellas County, Florida on this ____ day of April, 2011.

ANTHONY RONDOLINO
Circuit Court Judge

ORIGINAL SIGNED APR 08 2011 JUDGE ANTHONY RONDOLINO

cc: Mark P. Stopa, Esq.
Erin Mae Rose Quinn, Esq.