

RECORDING: SEE BODY
FOR SPECIFIC PARTIES

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

P BAC HOME LOANS SERVICING, L.P.
F/K/A COUNTRYWIDE HOME LOANS
SERVICING, L.P.,

Plaintiff,

v.

HECTOR VEGA, *et. al.*

Defendant.



PAULA S. O'NEIL, Ph.D. PASCO CLERK & COMPTROLLER
07/27/12 02:14pm 1 of 2
OR BK 8732 PG 1873

Case No. 2009-CA-011877 ES
Division J-4

FILED FOR RECORD
PASCO COUNTY, FLORIDA
2012 JUL 24 PM 3:24
Paula S. O'Neil
Clerk & Comptroller
Pasco County, Florida

ORDER GRANTING SUMMARY JUDGMENT

THIS CAUSE, having come before the Court on July 24, 2012 on Defendant's Motion for Summary Judgment, and the Court, being duly advised in the premises, it is hereby;

ORDERED AND ADJUDGED as follows:

1. Plaintiff filed this lawsuit in December, 2009, seeking mortgage foreclosure and to re-establish a lost note. The Note attached to the unverified Complaint did not have an endorsement, and there is no assignment of mortgage in the court file.

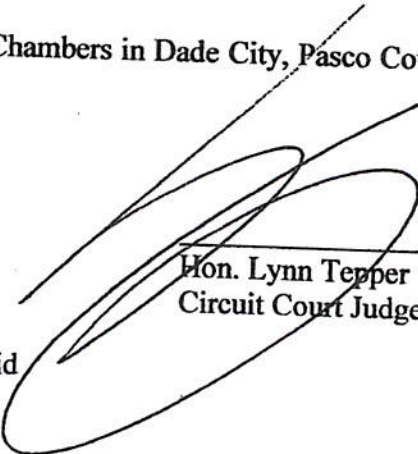
2. After the suit was filed, an assignment of mortgage was recorded at OR Book 7729, Page 1957, a fact over which this Court takes judicial notice. However, that assignment is dated August 8, 2011, well after Plaintiff filed this lawsuit. Additionally, although Plaintiff has filed a copy of the original Note, with three endorsements, Plaintiff has not: (i) filed a Complaint based on that Note, see Feltus v. U.S. Bank, N.A., 80 So. 3d 375 (Fla. 2d DCA 2012); (ii) introduced that Note for summary judgment purposes; or (iii) in any way indicated when those endorsements were executed.

3. On these facts, Defendant moved for summary judgment, arguing the undisputed

evidence shows Plaintiff lacked standing at the inception of this case. This Court agrees. See Rigby v. Wells Fargo Bank, N.A., 84 So. 3d 1195 (Fla. 4th DCA 2012); McLean v. J.P. Morgan Chase Bank, N.A., 79 So. 2d 170 (Fla. 4th DCA 2012). The pleadings, affidavits, interrogatory answers, admissions, and depositions reveal no disputed issues of material fact, and Defendant is entitled to judgment as a matter of law.

4. McLean and its progeny make it clear that a final judgment on the merits would not be proper, but that dismissal without prejudice is the proper outcome. As such, this case is dismissed without prejudice and without leave to amend.

DONE AND ORDERED in Chambers in Dade City, Pasco County, Florida on this 24th day of July, 2012



Hon. Lynn Tepper
Circuit Court Judge

cc: Mark P. Stopa, Esq.
Robertson, Anschutz & Schneid

OR BK 8732 PG 1874
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D HECTOR VEGA; UNKNOWN SPOUSE OF HECTOR VEGA IF ANY; ANY AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER, AND AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES, HEIRS, DEVISEES, GRANTEEES OR OTHER CLAIMANTS; CONCORD STATION COMMUNITY ASSOCIATION, INC.; JOHN DOE AND JANE DOE AS UNKNOWN TENANTS IN POSSESSION