Exhibit "A"

Order of the Eastern District of Pennsylvania

May 30,2017

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH J. TAGGART,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	NO. 16-00063
WELLS FARGO BANK, N.A., et al.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 30th day of May, 2017, upon consideration of the Motion to Dismiss the Amended Complaint by Defendants Wells Fargo, N.A., Mortgage Electronic Registration Systems, Inc., MERSCORP Holdings, Inc., and Federal Home Loan Mortgage Company (Docket No. 32), and Plaintiff Kenneth Taggart's Response in Opposition and Motion to Stay (Docket No. 35), it is hereby **ORDERED** that:

1. The Defendants' Motion to Dismiss is **GRANTED** in its entirety;
2. The Plaintiff's Amended Complaint is **DISMISSED WITH PREJUDICE**; and
3. The Plaintiff's Motion to Stay is **DENIED**.
4. The Clerk of Court is directed to mark this case as closed.

It is so **ORDERED**.

BY THE COURT:

LAWRENCE F. STENGEL, J.

Exhibit "B"

Memorandum of the Eastern District of Pennsylvania

May 30, 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH J. TAGGART, Plaintiff, v. WELLS FARGO BANK, N.A., et al., Defendants.	:	CIVIL ACTION NO. 16-00063

MEMORANDUM

STENGEL, J. May 30, 2017

Defendants Wells Fargo Bank, N.A., Mortgage Electronic Registration Systems Inc., MERSCORP Holdings, Inc., and Federal Home Loan Mortgage Company have filed a motion to dismiss the amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). For the following reasons, the motion to dismiss is granted.

I. FACTUAL BACKGROUND

Plaintiff Kenneth J. Taggart filed an amended complaint[1] against Wells Fargo Bank, N.A., Mortgage Electronic Registration Systems Inc. ("MERS"), MERSCORP, Inc., and Federal Home Loan Mortgage Corp. ("Freddie Mac"), for various claims in connection with the property he owns at 709 Schwab Road, Hatfield, Pennsylvania 19440 ("the Property"). (Am. Compl. at

[1] The plaintiff's original complaint was dismissed with prejudice as to the individual defendants, and was dismissed without prejudice as to the Mortgage Defendants. See Taggart v. Wells Fargo Bank, N.A., No. Civ.A. 16-00063, 2016 WL 5661736, at *6 (E.D. Pa. Sept. 30, 2016).

2.)[2] Plaintiff seeks generally to (1) determine the validity of the note and mortgage contract; (2) determine whether the note and mortgage were ever perfected under Pennsylvania law, and if any subsequent parties may make legal claims to enforce the note pursuant to the Pennsylvania Uniform Commercial Code; and (3) obtain declaratory relief, "contract relief," quiet title relief, and injunctive relief "to strike or vacate all recordings and claims, and all claims from any parties who assert claims to mortgage and note now, or at any time in the future which were simply, void ab initio." (Am. Compl. at 2–3.) The plaintiff believes that (1) the note and mortgage were never perfected; (2) the original lender was not a legal entity on the date they were created; and (3) no party can make claims under Pennsylvania law to enforce either the mortgage or the note. (Id. at 4–6.)

On February 6, 2009, a mortgage was recorded for the Property in the Montgomery County Recorder of Deeds Office, indicating that the mortgage was originated by American Partners Bank, N.A. as the grantor and that the plaintiff is the grantee. (Id. at 16 ¶ 68.) The mortgage was originated on December 16, 2008. (Id. at 16 ¶ 69.) The plaintiff alleges that Freddie Mac never recorded the note and mortgage that Wells Fargo claims to hold. (Id. at 16–17.) The mortgage was assigned to Wells Fargo, N.A. on April 5, 2010. (Id. at 17 ¶ 73.) The plaintiff alleges that the note was never recorded, but that one "Assignments [sic] of Mortgage" was recorded in Montgomery County, Pennsylvania.[3] (Am. Compl. at 17 ¶ 75.) The plaintiff alleges numerous failures and defects in connection with the mortgage and note and their

[2] Due to the unique numbering system the plaintiff utilized in drafting the paragraphs of his amended complaint, citations to the amended complaint will use both the page number and paragraph number where possible and/or necessary.

[3] The plaintiff previously alleged in the complaint that the assignment was recorded with the Recorder of Deeds in Montgomery County on May 18, 2010. (See Compl. at 8 ¶ 8, 8 ¶ 9(a).)

creation, recording, and assignment. (See Am. Compl. at 1–28.) All of the claims set forth in the amended complaint stem from these purported failures and defects.

II. STANDARD OF REVIEW

Under Rule 12(b)(6), a defendant bears the burden of demonstrating that the plaintiff has not stated a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6); see also Hedges v. United States, 404 F.3d 744, 750 (3d Cir. 2005). In Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), the United States Supreme Court recognized that "a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Id. at 555. Subsequently, in Ashcroft v. Iqbal, 556 U.S. 662 (2009), the Supreme Court defined a two-pronged approach to a court's review of a motion to dismiss. "First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." Id. at 678. Thus, while "Rule 8 marks a notable and generous departure from the hyper-technical, code-pleading regime of a prior era . . . it does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions." Id. at 678–79.

Second, the Supreme Court emphasized that "only a complaint that states a plausible claim for relief survives a motion to dismiss." Id. at 679. "Determining whether a complaint states a plausible claim for relief will, as the Court of Appeals observed, be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." Id. A complaint does not show an entitlement to relief when the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct. Id.; see also Phillips v. Cnty. of Allegheny, 515 F.3d 224, 232–34 (3d Cir. 2008) (holding that: (1) factual allegations of

complaint must provide notice to defendant; (2) complaint must allege facts suggestive of the proscribed conduct; and (3) the complaint's "'factual allegations must be enough to raise a right to relief above the speculative level.'" (quoting Twombly, 550 U.S. at 555)).

The basic tenets of the Rule 12(b)(6) standard of review have remained static. Spence v. Brownsville Area Sch. Dist., No. Civ.A.08-626, 2008 WL 2779079, at *2 (W.D. Pa. July 15, 2008). The general rules of pleading still require only a short and plain statement of the claim showing that the pleader is entitled to relief and need not contain detailed factual allegations. Phillips, 515 F.3d at 233. Further, the court must "accept all factual allegations in the complaint as true and view them in the light most favorable to the plaintiff." Buck v. Hampton Twp. Sch. Dist., 452 F.3d 256, 260 (3d Cir. 2006). Finally, the court must "determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief." Pinkerton v. Roche Holdings Ltd., 292 F.3d 361, 374 n.7 (3d Cir. 2002).

III. DISCUSSION

The defendants move to dismiss the amended complaint in its entirety for failure to state a claim under Rule 12(b)(6) and to dismiss the claims against Wells Fargo because they are barred pursuant to *res judicata*. Having considered the amended complaint and the parties' briefs, I find that the plaintiff's claims against the defendants fail as a matter of law. I will therefore grant the motion to dismiss on that basis. I previously granted the defendants' motion to dismiss the complaint without prejudice, but I will grant the motion to dismiss the amended complaint with prejudice for the reasons discussed below.

A. Quiet Title, Slander of Title, and Petition to Quiet Title Claims Against Wells Fargo, MERS, MERSCORP, and Freddie Mac

In counts one, two, and three of the amended complaint, the plaintiff sets forth claims for quiet title, slander of title, and declaratory relief against Wells Fargo, Freddie Mac, and MERS

and MERSCORP, seeking admissions, the surrender of documents, and declaratory relief in connection with the mortgage, note, and assignment. (See Am. Compl. 28–37.) In support, the plaintiff alleges that Freddie Mac purports to be the owner of the note and mortgage, that American Partners Bank did not exist the day the mortgage and note were created, that the note was not notarized or recorded, and that "[t]here have been claims by several parties to have an interest in the mortgage that was recorded." (Id. at 4–5, 16–17.) He further alleges numerous procedural and legal defects in connection with the mortgage, note, and assignment. (Id. at 16–28.)

1. Grounds for Dismissal Pursuant to Rule 12(b)(6)

a. Quiet Title

The defendants assert that the plaintiff has failed to state a plausible quiet title claim against them due to numerous factual and legal insufficiencies in the amended complaint with regard to both the mortgage and the assignment. First, the defendants argue that a duly recorded mortgage is presumed valid, and that the plaintiff does not dispute that he obtained the loan and that he executed and delivered the note and mortgage. (Defs.' Mem. Supp. Mot. Dismiss 10 (citing Pitti v. Pocono Bus. Furniture, Inc., 859 A.2d 523, 525 n.3 (Pa. Commw. Ct. 2004).) Second, they argue that because Wells Fargo is the current mortgagee of record, it is a real party in interest and therefore has standing to enforce the mortgage, and that the note follows the mortgage. (Id. at 10–11 (citations omitted).) Third, the defendants point out that the plaintiff has not included facts to support his allegations that other parties have made claims to have an interest in the mortgage, that Wells Fargo asserted that Freddie Mac is the owner of the mortgage, or that Freddie Mac has represented to the plaintiff that it owns the note and mortgage. (Id. at 11.) The defendants next point out the flaws in the plaintiff's contentions regarding

American Partners Bank's name change, his unsupported theory concerning notarization of promissory notes, his assertion that he was not provided with a conformed copy of the note and mortgage at the closing, his belief that any noncompliance with the Pennsylvania recording statutes means that he no longer has obligations under the mortgage, his theories regarding what is required for a mortgage to be perfected, his belief regarding the consequences of "splitting" a note and mortgage, and his conclusions regarding the validity of the assignment of the mortgage. (Id. at 13–19.)

Having reviewed the conclusory allegations and inaccurate factual assertions in the amended complaint, I find that the failings that the defendants identified require dismissal of the quiet title claims against them. Simply put, the facts and arguments that the plaintiff sets forth do not show a need to quiet title. Accordingly, counts one, two, and three are dismissed.

b. Slander of Title

The defendants argue that, as with the original complaint, the plaintiff has failed to state a plausible claim for slander of title in the amended complaint.

> The Pennsylvania Superior Court, describing the tort of slander of title, has stated: "Slander of title is the false and malicious statement, oral or written, made in disparagement of a person's title to real property . . . . The element of malice, express or implied, in making slanderous statements respecting the title of another's property, is essential to the recovery of damages, and in the absence of proof of such malice the action will fail. While the statement may be false, or made without right, there can be no legal malice and no action will lie, if it is made in good faith and with probable cause."

Kalian at Poconos, LLC v. Saw Creek Estates Cmty. Ass'n, Inc., 275 F. Supp. 2d 578, 591–92 (M.D. Pa. 2003) (quoting Reed Road Assocs. v. Campbell, 582 A.2d 1373, 1374 n.2 (1990) (internal citations and quotations omitted)). The plaintiff has again failed to allege the element of malice in connection with any of the defendants' statements concerning title to the Property.

In addition, the plaintiff does not set forth any plausible allegations regarding statements that could support a slander of title claim. Thus, counts four and nine must be dismissed.

c. Declaratory Relief

As with the original complaint, the defendants urge dismissal of "Plaintiff's requests for various declaratory judgments" because they are requests for a remedy, rather than the basis of a cause of action. (Defs.' Mem. Supp. Mot. Dismiss 20 (citing Lorah v. SunTrust Mortgage, Inc., No. Civ.A. 08-0703, 2010 WL 5342738, at *6 (E.D. Pa. Dec. 17, 2010) (citing Jones v. ABN AMRO Mortgage Grp., Inc., 551 F. Supp. 2d 400, 406 (E.D. Pa. 2008) (stating that a "[d]eclaratory judgment is a remedy, not a count."), aff'd, 606 F.3d 119 (3d Cir. 2010)).)

Because the requests for declaratory judgments against the Mortgage Defendants do not identify a source of law giving rise to a cause of action that would provide such declaratory relief under the circumstances alleged, they must be dismissed. See Jones, 551 F. Supp. 2d at 406 (finding that where a particular count "d[id] not identify the source of the alleged rights for which [the plaintiffs sought] declaratory relief [it] therefore fail[ed] to state a claim upon which relief may be granted."). Additionally, as the defendants point out, the plaintiff's requests for declaratory relief do not satisfy the requirements under Pennsylvania law to state such claims, which is yet another ground for their dismissal.[4] (See Defs.' Mem. Supp. Mot. Dismiss 21

[4] "To state a claim for declaratory judgment, a party must allege facts that establish a direct, immediate and substantial injury, and it must demonstrate the existence of an actual controversy related to the invasion or threatened invasion of one's legal rights." Chester Cmty. Charter Sch. v. Com., Dep't of Educ., 996 A.2d 68, 80 (Pa. Commw. Ct. 2010) (citing Bowen v. Mount Joy Township, 644 A.2d 818, 821 (1994)). The speculative and bare-bones allegations in the amended complaint regarding the "several parties" making claims of ownership for the mortgage do not demonstrate the existence of an actual controversy. The plaintiff does not address this problem, and instead argues that there is a "case controversy" because the defendants' have not produced evidence that American Partners Bank existed on December 16, 2008, or that it existed after January 2008. (Pl.'s Resp. Opp'n Mot. Dismiss 1–4, 5.) This argument is based on the fact that the bank changed names, and accordingly does not demonstrate the existence of a controversy.

(quoting Chester Cmty. Charter Sch. v. Com., Dep't of Educ., 996 A.2d 68, 80 (Pa. Commw. Ct. 2010) (internal citation omitted)).) For these reasons, counts five, six, seven, eight, and ten must be dismissed.

2. Dismissal of Claims Against Wells Fargo Pursuant to *Res Judicata*

The defendants also assert that the claims against Wells Fargo are barred by *res judicata* because they could have been raised in his prior cases against Wells Fargo. (Defs.' Mem. Supp. Mot. Dismiss 21, 23.) Because I am granting the defendants' motion to dismiss the amended complaint in its entirety, I do not address the merits of their arguments in favor of dismissing the claims against Wells Fargo pursuant to *res judicata*.

B. Plaintiff's Motion to Stay

The plaintiff argues that this case should be stayed pending resolution of the mortgage foreclosure proceedings against him, having incorrectly interpreted the defendants' argument that his claims should instead be litigated as defenses in that action as a proposal to stay this case. (Pl.'s Resp. Opp'n to Mot. Dismiss 5–6.) As discussed above, the plaintiff has failed to allege factually and legally sufficient claims in this matter. Such failings require dismissal of the amended complaint in its entirety. Thus, even if a stay were appropriate, it is unnecessary. Accordingly, the plaintiff's motion to stay is denied.

C. Leave to Amend

The United States Court of Appeals for the Third Circuit has made clear that if a complaint is subject to Rule 12(b)(6) dismissal, a district court must ordinarily permit a curative amendment unless such an amendment would be inequitable or futile. Alston v. Parker, 363 F.3d 229, 235 (3d Cir. 2004). Dismissal without leave to amend is justified only on grounds of bad faith, undue delay, prejudice, and futility. Id. at 236.

"A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." Erickson v. Pardus, 551 U.S. 89, 94 (2007) (internal citations and quotations omitted). Nonetheless, "[t]o survive a motion to dismiss, a complaint—*even a* pro se *complaint*—'must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Maxberry v. Sallie Mae Educ. Loans, 532 F. App'x 73, 75 (3d Cir. 2013) (emphasis added) (quoting Iqbal, 556 U.S. at 663 (quoting Twombly, 550 U.S. at 570)).

In this case, the plaintiff filed a *pro se* complaint prior to obtaining counsel, but he now has counsel and is himself an experienced federal court litigant. See, e.g., Taggart v. Wells Fargo Home Bank N.A., No. Civ.A. 12-3177, 2013 WL 3009732, at *3 (E.D. Pa. June 18, 2013) ("Although Plaintiff is *pro se*, his experience with the court system has provided him with far greater knowledge than a typical unrepresented party, and he should be aware that his numerous cases against Wells Fargo and Blank Rome are an abuse of the judicial process.") Indeed, as of 2013, Plaintiff had already initiated seventeen lawsuits concerning his properties. Id. at *1 n.1 (collecting cases).

The amended complaint does not address the failings identified in the original complaint which led to its dismissal. Thus, the allegations in the amended complaint, the arguments in the plaintiff's brief, and the plaintiff's litigation history—both in this case and more generally—support a finding that further amendment to the plaintiff's claims would be futile. Cf. Maxberry, 532 F. App'x at 75–76 (affirming dismissal with prejudice where "[n]either the complaint nor the brief adduce[d] any evidence" supporting the plaintiff's claims and stating that the court "ha[d] no reason to believe that an amended complaint would survive a motion to dismiss" where the plaintiff's "past litigation practices indicate that he is prone to making

incomprehensible and unsubstantial filings . . . ."). The amended complaint is therefore dismissed with prejudice.

IV. CONCLUSION

In light of the foregoing, the defendants' motion to dismiss is granted and the amended complaint is dismissed with prejudice. The plaintiff's motion to stay is also denied.

An appropriate Order follows.

Exhibit "C"

Memorandum of the Eastern District of Pennsylvania

Reconsideration Denied

July 28,2017

may be used only to correct manifest errors of law or fact or to present newly discovered evidence.'" Id. A motion for reconsideration filed pursuant to Rule 59(e) of the Federal Rules of Civil Procedure may be granted if the moving party shows: "(1) an intervening change in controlling law; (2) the availability of new evidence that was not available when the court initially issued its order; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice." Max's Seafood Café v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999).[1]

Motions for reconsideration are granted sparingly. Cont'l Cas. Co. v. Diversified Indus., Inc., 884 F. Supp. 937, 943 (E.D. Pa. 1995). The grant of a motion for reconsideration is improper where it simply asks the court to "rethink what [it] had already thought through—rightly or wrongly." Glendon Energy Co. v. Borough of Glendon, 836 F. Supp. 1109, 1122 (E.D. Pa. 1993) (internal quotations omitted). Moreover, motions for reconsideration may not be used "as a means to argue new facts or issues that inexcusably were not presented to the court in the matter previously decided." Brambles USA, Inc. v. Blocker, 735 F. Supp. 1239, 1240 (D.

[1] As the defendants point out, the plaintiff does not specify whether his motion is pursuant to Rule 59(e) or Rule 60(b). Assuming that the plaintiff intends to assert a claim for relief under Rule 60(b), it fails. Rule 60(b) provides relief where there is

> (1) mistake, inadvertence, surprise, or excusable neglect;
> (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
> (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
> (4) the judgment is void;
> (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
> (6) any other reason that justifies relief.

Fed. R. Civ. P. 60. None of these circumstances is present here. The plaintiff asserts that American Partners Bank is committing fraud and fraud on the court (Pl.'s Mot. Reconsideration 10), but the fact that a bank changed its name at a certain point in time does not constitute fraud. Accordingly, to the extent that the plaintiff seeks relief pursuant to Rule 60(b), it is denied.

Del. 1990). "Nor may a motion for reconsideration be used to revisit or raise new issues with the benefit of 'the hindsight provided by the court's analysis'" or to advance arguments that would not change the result of the court's initial ruling. Marshak v. Treadwell, No. Civ.A.95-3794, 2008 WL 413312, at *7 (D.N.J. Feb. 13, 2008), aff'd in part & remanded by 595 F.3d 478 (3d Cir. 2009) (quoting United States v. Jones, 158 F.R.D. 309, 314 (D.N.J. 1994)).

III. DISCUSSION

The plaintiff's motion for reconsideration is based on the same inaccurate assertions and erroneous conclusions that he relied on in responding to the motions to dismiss his complaint and amended complaint. Although the plaintiff characterizes his assertions as "fact" and "uncontroverted evidence," they are more accurately described as conclusory allegations that cannot withstand a motion to dismiss. More importantly, for purposes of considering a motion for reconsideration, he does not set forth any assertions that there has been a change in the controlling law or that there is new evidence in support of his claims, and his disagreement with my decision dismissing his amended complaint does not demonstrate the need to correct a clear error of law or fact or to prevent manifest injustice. He has therefore failed to establish any of the grounds that would warrant reconsideration of the dismissal of his amended complaint.

IV. CONCLUSION

Based on the above discussion, I decline to reconsider the holding of my May 30, 2017 decision dismissing the amended complaint. The motion for reconsideration is therefore denied.

An appropriate Order follows.

Exhibit "D"

Judgement of the Third Circuit Court of Appeals

May 15, 2018

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 17-1836 & 17-2416

KENNETH J. TAGGART,
Appellant

v.

WELLS FARGO BANK, N.A.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC., a/k/a MERS; MERSCORP, INC.; FEDERAL HOME LOAN MORTGAGE CORP., a/k/a FREDDIE MAC; JOHN DOES 1-10

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. No. 5-16-cv-00063)
District Judge: Honorable Lawrence F. Stengel

Submitted Under Third Circuit L.A.R. 34.1(a)
on April 27, 2018

Before: JORDAN, BIBAS, and SCIRICA, Circuit Judges

JUDGMENT

This cause came to be heard on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted under Third Circuit L.A.R. 34.1(a) on April 27, 2018.

On consideration whereof, it is now **ORDERED** and **ADJUDGED** by this Court that the orders of the District Court entered on April 12, 2017 and May 30, 2017 are hereby **AFFIRMED**. Costs will be taxed against Appellant. All of the above in accordance with the Opinion of this Court.

ATTEST:

Patricia S. Dodszuweit
Clerk

Dated: May 15, 2018

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT
CLERK

UNITED STATES COURT OF APPEALS
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May 15, 2018

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RE: Kenneth Taggart v. Wells Fargo Bank NA, et al
Case Numbers: 17-1836 & 17-2416
District Court Case Number: 5-16-cv-00063

ENTRY OF JUDGMENT

Today, **May 15, 2018** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:
14 days after entry of judgment.
45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:
3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App.

P. 32(g).
15 pages if hand or type written.

Attachments:
A copy of the panel's opinion and judgment only.
Certificate of service.
Certificate of compliance if petition is produced by a computer.
No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very Truly Yours,
Patricia Dodszuweit, Clerk

By: Desiree
Case Manager
267-299-4252

Exhibit "E"

Memorandum of the Third Circuit Court of Appeals

May 15,2018

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 17-1836 & 17-2416

KENNETH J. TAGGART,
Appellant

v.

WELLS FARGO BANK, N.A.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC., a/k/a MERS; MERSCORP, INC.; FEDERAL HOME LOAN MORTGAGE CORP., a/k/a FREDDIE MAC; JOHN DOES 1-10

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. No. 5-16-cv-00063)
District Judge: Honorable Lawrence F. Stengel

Submitted Under Third Circuit L.A.R. 34.1(a)
on April 27, 2018

Before: JORDAN, BIBAS, and SCIRICA, Circuit Judges

(Filed: May 15, 2018)

OPINION*

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* This disposition is not an opinion of the full Court and, under I.O.P. 5.7, does not constitute binding precedent.

BIBAS, Circuit Judge

Acting on the maxim that the best defense is a good offense, Kenneth Taggart responded to Wells Fargo's foreclosure action by suing it and five others. He asserted claims of quiet title, slander of title, and "declaratory relief," claiming that his mortgage was void from the start. But he never alleged plausible facts to support these theories. So we will affirm the District Court's dismissal.

I.

Taggart took out a mortgage loan from Waterfield Bank. But the paperwork bore Waterfield's old name, American Partners Bank. All the same, Mortgage Electronic Registration Systems recorded the mortgage, and Lisa Roach notarized it. Then Waterfield, still using its old name, assigned the mortgage to Wells Fargo. Eugene Jaskiewicz notarized the assignment.

Wells Fargo filed a foreclosure action in the Court of Common Pleas for Montgomery County, Pennsylvania. Taggart responded by filing two lawsuits against Wells Fargo. Both were dismissed. Two months ago, the Court of Common Pleas granted Wells Fargo's motion for summary judgment. While "the designation of the mortgagee in the mortgage as American Partners Bank was erroneous," it held "the error was not fatal." Order Granting Summ. J., No. 2010-08638, at 1 n.1 (Mar. 27, 2018). "[T]here is no dispute that the entity that provided the mortgage loan to [Taggart] was Waterfield Bank." *Id.*

While that action was pending, Taggart filed the complaint underlying this suit in the same court. Because he named Freddie Mac as a party, the defendants removed this case to federal court. Taggart claimed that the mortgage was void because American Partners

Bank did not exist when the mortgage and note were created. He also alleged that Mortgage Electronic Registration System, MERSCORP, and Freddie Mac all claim an interest in his property in addition to Wells Fargo, so he charged them with slander of title and sought to quiet title. Finally, he included "declaratory relief" claims seeking discovery from Roach and Jaskiewicz. The District Court dismissed his amended complaint with prejudice.

II.

Taggart contests the District Court's jurisdiction. The District Court had jurisdiction under 12 U.S.C. § 1452(f), which lets Freddie Mac remove to federal court "any civil or other action" to which it "is a party." Taggart argues that *Lightfoot v. Cendant Mortgage Corp.* abrogated Freddie Mac's removal power. 137 S. Ct. 553 (2017). But *Lightfoot* dealt with Fannie Mae, not Freddie Mac. And it directly contrasted the statutory scheme governing Fannie Mae with the "clear textual indications" that Congress gave Freddie Mac "fuller access to the federal courts." *Id.* at 564. So federal jurisdiction is proper.

We review the District Court's dismissal for failure to state a claim de novo. *Evancho v. Fisher*, 423 F.3d 347, 350 (3d Cir. 2005). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

III.

Taggart waived his claims against Roach and Jaskiewicz because his brief advances no arguments in support of them. *See Kost v. Kozakiewicz*, 1 F.3d 176, 182 (3d Cir. 1993). Taggart's claims against the corporations fail on the merits.

First, there is no cloud on his title. The Montgomery County Court of Common Pleas recently rejected Taggart's theory that the mortgage was void *ab initio*. Order Granting Summ. J., No. 2010-08638, at 1 n.1 (Mar. 27, 2018). The District Court correctly noted that Taggart "d[id] not dispute that he obtained the loan and that he executed and delivered the note and mortgage." *Taggart v. Wells Fargo Bank, N.A.*, No. 16-cv-00063, 2017 WL 2347186, at *3 (E.D. Pa. May 30, 2017). His complaint is conclusory, alleging no specific facts suggesting that anyone besides Wells Fargo lays claim to his property.

Second, there is no slander because there was no malice. The District Court correctly found that Taggart alleged no facts to support a finding of malice, a necessary element of slander of title. *Reed Road Assocs. v. Campbell*, 582 A.2d 1373, 1374 n.2 (Pa. Super. Ct. 1990).

Finally, declaratory relief is not a claim. The District Court correctly explained that Taggart's "requests for declaratory judgments against the Mortgage Defendants do not identify a source of law giving rise to a cause of action that would provide such declaratory relief." *Taggart*, 2017 WL 2347186, at *3.

* * * * *

Taggart faces the unfortunate prospect of losing his house. But as the District Court correctly found, he pleaded no facts showing a genuine controversy about title or slander. So we will affirm. We deny all outstanding motions.

Exhibit "F"

Reconsideration Denied

of the Third Circuit Court of Appeals

June 21, 2018

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 17-1836 & 17-2416

KENNETH J. TAGGART,
Appellant

v.

WELLS FARGO BANK, N.A.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC., a/k/a MERS; MERSCORP, INC.; FEDERAL HOME LOAN MORTGAGE CORP., a/k/a FREDDIE MAC; JOHN DOES 1-10

(E.D. Pa. No. 5-16-cv-00063)

SUR PETITION FOR REHEARING

Present: SMITH, *Chief Judge*, McKEE, CHAGARES, JORDAN, VANASKIE, SHWARTZ, RESTREPO, and BIBAS, *Circuit Judges*, and SCIRICA,* *Senior Circuit Judge*

The petition for rehearing filed by appellant in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in

* Judge Scirica's vote is limited to panel rehearing only.

regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc is denied.

By the Court,

s/Stephanos Bibas
Circuit Judge

Dated: June 21, 2018
cc:

Steven J. Adams, Esq.
Craig A. Hirneisen, Esq.
Joshua L. Thomas, Esq.