

APPENDIX

NO. 18-1036

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

PAUL V. CANNON, Plaintiff, Appellant,
v.
BANK OF AMERICA, NATIONAL ASSOCIATION;
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.; BANK OF NEW YORK MELLON,
as Trustee for CWABS Asset-Backed Certificates
Trust 2007-9; SPECIALIZED LOAN SERVICING,
LLC,
Defendants, Appellees.

Appeal from the United States District Court
District of Massachusetts
William G. Young, District Judge, Presiding

JUDGMENT

Entered February 21, 2019
Before TORRURELLA, LYNCH and KAYATTA,
Circuit Judges

Paul Cannon appeals from the district court's dismissal of his various claims under Fed. R. Civ. P. 12(b)(6). After careful de novo review of the record and the parties' arguments on appeal, we affirm. To the extent that we do not deem the appellant's claims of error waived for lack of sufficient development in his opening brief, see *United States v. Zannino*, 895 F.2d 1, 17 (1st Cir. 1990), we find them unpersuasive. Even if we were to bypass any waiver, we would agree with the district court's conclusion that none of the claims advanced in the complaint states a plausible case for relief.

Affirmed. See 1st Cir. Loc. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

No: 17-cv-10295-WGY
Civil Action

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CANNON
Plaintiff
v.
BANK OF AMERICA et al
Defendant.

Complaint for:
VIOLATIONS OF THE FAIR DEBT COLLECTION
PRACTICES ACT; VIOLATIONS OF FAIR CREDIT
REPORTING ACT;
MISREPRESENTATION;
UNJUST ENRICHMENT;
CIVIL CONSPIRACY;
CANCELLATION OF INSTRUMENTS; and
SLANDER OF TITLE

William G. Young, District Judge, Presiding

ORDER OF DISMISSAL
Filed February 8, 2010

YOUNG, D.J.

After a ruling on December 12, 2017, this Court Orders that Defendants' Motions to Dismiss are Allowed and the above entitled action be and hereby is Dismissed as matter of law.

Robert M. Farrell
Clerk

By: /s/ Jennifer Gaudet.
Deputy Clerk

December 12, 2017

No: 17-cv-10295-WGY
Civil Action

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PAUL V. CANNON,
Plaintiff,
v.
BANK OF AMERICA, et al,
Defendants.

TRANSCRIPT OF HEARING
Before Judge William G. Young

Motion to Dismiss

United States District Court
District of Massachusetts (Boston)
One Courthouse Way
Boston, Massachusetts 02210
Tuesday, December 12, 2017

REPORTER: RICHARD H. ROMANOW, RPR
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United States District Court
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P R O C E E D I N G S

(Begins, First Call, 2:00 p.m.)

THE CLERK: Civil Matter 17-10295, Cannon versus Bank of America.

THE COURT: So is Mr. Cannon here?

MR. CANNON: Yes, your Honor.

THE COURT: Mr. Cannon, are you going to get an attorney here?

MR. CANNON: I can't afford one right now, your Honor.

THE COURT: So you want to argue it yourself?

MR. CANNON: Yes.

THE COURT: How long for the attorneys and for Mr. Cannon?

MS. KINGSTON: 5 minutes.

THE COURT: Second call?

MS. KINGSTON: 5 minutes, yes.

THE CLERK: Very well, second call.

(Short recess.)

(Begins, Second Call, 2:05 p.m.)

THE CLERK: Now hearing Civil Matter 17-10295, Cannon versus the Bank of America.

THE COURT: And would Mr. Cannon and counsel come forward.

(To the podium.)

THE COURT: Now -- and Mr. Cannon has introduced himself, so would counsel for the defense introduce themselves.

MS. KINGSTON: Good afternoon, your Honor, Christine Kingston on behalf of the defendants, Bank of New York Mellon and Specialized Loan Servicing, LLC.

MR. McCANN: Good afternoon, your Honor, John McCann on behalf of Bank of America NA and Mortgage 9 Electronic Registration Systems, Inc.

THE COURT: Thank you. Mr. Cannon, I have read your complaint here -- and I've read all the papers in fact, and you have a variety of arguments. Some of them have already been dismissed with prejudice, which means you had to appeal, you can't come back and start another case, others of them were dismissed without prejudice, and so you have the right to come back, but all of them appear, it seems to me, to fall -- to deal with events too far in the past for a court to deal with them. So my -- and I tell you this having come on -- you ought to know what I'm thinking coming on the bench. So I think that you lose.

One of the arguments, your argument about MERS authority, interestingly I agree with you, but I'm a trial judge and the law has moved the other way, the law is pretty unequivocal that you can't really challenge -- you can't, um, since they have the deed and acted -- and they have a mortgage note and they've acted in -- in accordance with that, you can't raise those matters.

So you do have the right to be heard, and I'll hear you, but I think I must dismiss your claims giving you a right to appeal.

I'll hear you, sir.

MR. CANNON: Okay, your Honor. Thank you.

I'm filing my opposition based on that their motion is premature because no discovery has taken place on the facts, on securities fraud, the attorneys are not true witnesses.

THE COURT: But just a moment. A motion -- this is a motion to dismiss and so the theory is I don't need to consider facts developed by discovery because if I look at your complaint -- and I have to take everything your way in your complaint, their position is that legally you cannot win -- not that they disagree with you, just that legally you can't win on this complaint.

And I can go over the various, um, claims, if you want, but all of them, it seems to me, you, um -- either we've heard them before and dismissed them with prejudice or you've missed the statute of limitations.

Let me just check with the defendant and see if I've got that right. That's your position, right?

MR. McCANN: That's correct, your Honor.

THE COURT: All right. Fine. So long as you're going to defend that position, we'll be back to Mr. Cannon.

I think that's right, Mr. Cannon. So I'm disposed to dismiss your complaint. That does give you the right to appeal to a higher court -- I'm not inviting you to appeal, but what it means is I'll take everything in your complaint as true, every factual allegation in your complaint as true, and having taken it as true, I have to say to you even then you don't win, and so legally I have no choice but to dismiss your action.

Is there some argument I haven't considered?

MR. CANNON: Well, what I'm dealing with here is securities fraud, um, versus a loan that was presented and the loan that was presented is not the deal that, um, transpired, it's a securities, um, deal done for the sake of Wall Street investors where mortgages were pooled or securitized and sold to

investors on Wall Street, thereby negating the validity of the loan documents, therefore it's null and void. And also --

THE COURT: But it isn't, under the law the securitization of loan documents isn't null and void, and it isn't, at least ipso facto, securities fraud, and I -- and there's no basis to claim those assertions here. No I said that wrong. There's no basis to reach that conclusion on the assertions in your complaint. The action must be dismissed. It is dismissed as a matter of law. You have the right to appeal. That's the order.
MR. CANNON: Thank you, your Honor.
(Ends, 2:15 p.m.)

C E R T I F I C A T E

I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER, do hereby certify that the foregoing record is a true and accurate transcription of my stenographic notes before Judge William G. Young, on Tuesday, December 12, 2017, to the best of my skill and ability.

/s/ Richard H. Romanow

12-21-17

RICHARD H. ROMANOW

Date