

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-13901

Non-Argument Calendar

GREGORY KEVIN SAMUELS,

Plaintiff-Appellant,

versus

WMC MORTGAGE, LLC,

GE HOLDINGS INC.,

GQ HOLDING 1329, LLC,

MORTGAGE ELECTRONIC SYSTEMS,

NINTH JUDICIAL CIRCUIT COURT OF FLORIDA, et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:21-cv-00870-RBD-LRH

Before GRANT, ANDERSON, and EDMONDSON, Circuit Judges.

PER CURIAM:

Gregory Samuels, proceeding *pro se*,¹ appeals the district court's dismissal -- for lack of subject-matter jurisdiction -- of Samuels's civil action. No reversible error has been shown; we affirm.

In 2021, Samuels filed *pro se* this civil action in the district court. In his amended complaint, Samuels named seven defendants: (1) WMC Mortgage LLC; (2) GE Holdings Inc.; (3) GQ Holdings 1329, LLC; (4) Mortgage Electronic Registration Systems, Inc.; (5) the Ninth Judicial Circuit Court of Florida; (6) Kondaur Capital Corporation; and (7) Tyler Stiglich. Briefly stated, Samuels purported to assert claims against defendants for fraud and for violation of his due-process rights stemming from the state-court foreclosure proceedings on his home.

The Ninth Judicial Circuit -- as a party defendant -- moved to dismiss Samuels's amended complaint on various grounds,

¹ We read liberally appellate briefs filed by *pro se* litigants. See *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008). We also construe liberally *pro se* pleadings. See *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998).

including for lack of subject-matter jurisdiction under Fed. R. Civ. P. 12(b)(1).

The district court granted the Ninth Judicial Circuit's motion. The district court concluded that it, as a federal court, lacked subject-matter jurisdiction to consider Samuels's challenges to the state foreclosure proceedings. The district court thus dismissed without prejudice Samuels's civil action as barred by the *Rooker-Feldman*² doctrine.³ This appeal followed.

On appeal, Samuels argues chiefly that the district court erred in dismissing his complaint without first addressing his claims on the merits: conduct Samuels says violated due process and his right to a jury trial. According to Samuels, "justice" outweighs "judicial expedience" such that the district court should have exercised its discretion under Rule 12(i) and deferred ruling on the Ninth Judicial Circuit's Rule 12(b)(1) motion until a trial on the merits. Samuels also asserts that his amended complaint stated a claim for relief and was, thus, not subject to dismissal under Fed. R. Civ. P. 12(b)(6).

Construed liberally, Samuels's *pro se* appellate brief challenges only the *timing* of the district court's ruling on the Rule 12(b)(1) motion. We reject Samuels's timing argument: a federal

² *Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

³ The district court also noted that it had already dismissed two substantially similar lawsuits filed by Samuels against many of the same defendants.

court must “inquire into whether it has subject matter jurisdiction at the earliest possible stage in the proceedings.” *See Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999).

Samuels raises no substantive argument challenging the correctness of the district court’s determination that the district court lacked subject-matter jurisdiction over Samuels’s claims or that Samuels’s claims were barred by *Rooker-Feldman*. Samuels has thus abandoned the argument that the district court concluded incorrectly that it lacked subject-matter jurisdiction. *See Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014) (“A party fails to adequately ‘brief’ a claim when he does not ‘plainly and prominently’ raise it, ‘for instance by devoting a discrete section of his argument to those claims.’”); *Timson v. Sampson*, 518 F.3d 870, 874 (11th Cir. 2008) (“While we read briefs filed by *pro se* litigants liberally, issues not briefed on appeal by a *pro se* litigant are deemed abandoned.” (citations omitted)).

Because Samuels has failed to challenge the only basis for the district court’s order of dismissal, we affirm.

AFFIRMED.

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

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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March 08, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 21-13901-CC
Case Style: Gregory Samuels v. WMC Mortgage, LLC, et al
District Court Docket No: 6:21-cv-00870-RBD-LRH

Electronic Filing

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website.

Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Pursuant to Fed.R.App.P. 39, costs taxed against appellant.

Please use the most recent version of the Bill of Costs form available on the court's website at www.call.uscourts.gov.

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OPIN-1A Issuance of Opinion With Costs

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

GREGORY KEVIN SAMUELS,

Plaintiff,

v.

Case No. 6:21-cv-870-RBD-LRH

WMC MORTGAGE, LLC; GE
HOLDINGS INC.; GQ HOLDING
1329, LLC; MORTGAGE
ELECTRONIC SYSTEMS; NINTH
JUDICIAL CIRCUIT COURT OF
FLORIDA; KONDAUR CAPITAL
CORPORATION; and TYLER T.
STIGLICH,

Defendants.

ORDER

Before the Court are:

1. Defendant, Tyler T. Stiglich's Motion to Dismiss Plaintiff's Complaint for a Civil Case (Doc. 10);¹
2. Defendant, Tyler T. Stiglich's Motion to Dismiss Plaintiff's Amended Complaint for a Civil Case (Doc. 12);
3. Defendnts [sic] WMC Mortgage, LLC's and GE Capital US Holdings,

¹ Stiglich's original motion to dismiss was moot when he filed it because of the earlier filing of the Amended Complaint. (See Doc. 4.)

- Inc.'s Motion to Dismiss (Doc. 14);
4. Defendnts [sic] WMC Mortgage, LLC's and GE Capital US Holdings, Inc.'s Motion to Transfer (Doc. 16 ("Motion to Transfer"));
 5. Plaintiff's, Gregory Kevin Samuels's Response to Defendant, Tyler T. Stiglich's Motion to Dismiss Plaintiff's Complaint for a Civil Case (Doc. 21);
 6. U.S. Magistrate Judge Leslie R. Hoffman's Report and Recommendation (Doc. 26 ("R&R"));²
 7. Plaintiff's Response to Defendants WMC Mortgage, LLC's and GE Capital US Holdings, Inc.'s Motion to Dismiss (Doc. 29);
 8. Defendant Ninth Judicial Circuit Court's Motion to Dismiss with Prejudice (Doc. 42 ("Ninth Circuit's Motion to Dismiss"));
 9. GQ Holdings 1329, LLC's Motion to Dismiss Plaintiff's Amended Complaint with Prejudice (Doc. 48); and
 10. Plaintiff's Response to Defendant Ninth Judicial Circuit Court's Motion to Dismiss with Prejudice (Doc. 49).

On review, the Ninth Circuit's Motion to Dismiss (Doc. 42) is due to be granted—

² After Judge Hoffman issued her R&R, which recommended transferring this case from then-presiding U.S. District Judge Wendy W. Berger to the Undersigned, Judge Berger recused. (Doc. 46.) The action was then randomly reassigned to the Undersigned, mooting the R&R. (Doc. 47.)

mooting the remaining filings – because the Court does not have subject matter jurisdiction over this action.

Federal courts have the “power to decide only certain types of cases.” *Morrison v. Allstate Indem. Co.*, 228 F.3d 1255, 1260–61 (11th Cir. 2000). The Court’s subject matter jurisdiction includes cases brought based on a federal question. See 28 U.S.C. § 1331. To establish federal question jurisdiction, “[t]he federal law must be an essential element of the plaintiff’s cause of action.” *Belair v. Lombardi*, 828 F. Supp. 50, 51 (M.D. Fla.), *clarified*, 151 F.R.D. 698 (M.D. Fla. 1993).

Although Plaintiff’s Amended Complaint alludes to a federal question by referencing due process (*see* Doc. 4, ¶ 43), his claims are actually predicated on seeking to overturn the state court’s rulings against him in a foreclosure case, as the Ninth Circuit’s Motion to Dismiss points out. (*See* Doc. 42, pp. 5–8.) But “a United States District Court has no authority to review final judgments of a state court in judicial proceedings.” *D.C. Ct. of Appeals v. Feldman*, 460 U.S. 462, 482 (1983); *see also Rooker v. Fid. Tr. Co.*, 263 U.S. 413, 416 (1923). So the Court does not have jurisdiction over Plaintiff’s claims. *See Martinez v. Bank of Am., N.A.*, No. 8:17-cv-2596, 2018 WL 5024178, at *2 (M.D. Fla. Oct. 17, 2018).

Moreover, this action is not the first time Plaintiff has sought relief from this Court based on these same claims. (*See* Doc. 41.) Rather, Plaintiff has filed suit against most of these same parties twice before, and the Court closed the case both

times. See *Samuels v. GQ Holding 1329, LLC*, No. 6:18-cv-940 (M.D. Fla. June 15, 2018); *Samuels v. WMC Mortg., LLC*, No. 6:20-cv-1441 (M.D. Fla. Aug. 11, 2020).

Though the Court will dismiss this case without prejudice given the lack of subject matter jurisdiction, this does not mean Plaintiff can file these claims again in another case; rather, Plaintiff is directed not to file another case based on these same claims because this Court does not have jurisdiction to accord Plaintiff the relief he seeks.


Accordingly, it is **ORDERED AND ADJUDGED**:

1. The Ninth Circuit's Motion to Dismiss (Doc. 42) is **GRANTED**.
2. Stiglich's first Motion to Dismiss the original Complaint (Doc. 10) is **DENIED AS MOOT** given the filing of the Amended Complaint (Doc. 4).
3. All other pending Motions to Dismiss (Docs. 12, 14, 48) are **DENIED AS MOOT**.
4. The Court **DECLINES** to adopt Judge Hoffman's R&R (Doc. 26) as it is moot.
5. Defendants' Motion to Transfer (Doc. 16) is **DENIED AS MOOT** given the assignment of this case to the Undersigned.
6. This case is **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction.

7. The Clerk is **DIRECTED** to close the file.
8. The Clerk is further **DIRECTED** not to open any other case by Plaintiff based on these same allegations.

DONE AND ORDERED in Chambers in Orlando, Florida, on October 6, 2021.




ROY B. DALTON JR.
United States District Judge

Copies:
Pro se Plaintiff Gregory Kevin Samuels

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

GREGORY KEVIN SAMUELS,

Plaintiff,

v.

Case No: 6:21-cv-870-WWB-LRH

**WMC MORTGAGE, LLC, GE
HOLDINGS INC., GQ HOLDING 1329,
LLC, MORTGAGE ELECTRONIC
SYSTEMS, NINTH JUDICIAL CIRCUIT
COURT OF FLORIDA, KONDAUR
CAPITAL CORPORATION and TYLER
T. STIGLICH,**

Defendants.

REPORT AND RECOMMENDATION

TO THE UNITED STATES DISTRICT COURT:

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: DEFENDANTS WMC MORTGAGE, LLC'S AND GE
CAPITAL US HOLDINGS, INC.'S MOTION TO
TRANSFER (Doc. 16)**

FILED: July 1, 2021

THEREON it is RECOMMENDED that the motion be GRANTED.

Defendants WMC Mortgage, LLC and GE Holdings, Inc.¹ ("Defendants") have filed a motion seeking to transfer the above-styled case to United States District Judge Roy B. Dalton, Jr.,

¹ This party is captioned as GE Holdings, Inc. in the style of the case. However, Defendants state that the party's correct name is GE Capital U.S. Holdings, Inc. (Doc. 16, at 1).

on the grounds that the present action is substantially similar to a prior action filed in this Court, *Samuels v. WMC Mortgage, LLC et al*, Case No. 6:20-cv-1441-RBD-LRH. (Doc. 16). Specifically, Defendants allege that the prior action asserted “in sum and substance, the exact allegations as does the operative pleading [in the present action], against the same parties.” (*Id.*, at 2).

The motion was referred to the undersigned by the presiding District Judge. Plaintiff, who is *pro se*, failed to timely respond to the motion, and the time for doing so has expired.² See Local Rule 3.01(c). Therefore, the undersigned will deem the motion unopposed. See *id.* The motion is now ripe for review.

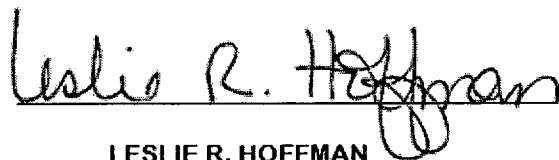
Upon review of the motion, the amended complaint in the present case (Doc. 4), and the third amended complaint in Case No. 6:20-cv-1441-RBD-LRH (Doc. 65), the undersigned finds that, pursuant to Local Rule 1.07, it would be appropriate to transfer this case to Judge Dalton for all further proceedings. In addition, the undersigned has contacted the Chambers of Judge Dalton, who has consented to the transfer. Accordingly, I **RESPECTFULLY RECOMMEND** that the Court **GRANT** Defendants’ motion (Doc. 16) and transfer the above-styled case to United States District Judge Dalton.

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation’s factual findings and legal conclusions. A party’s failure to file written objections waives that party’s right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. See 11th Cir. R. 3-1.

² In a separate motion filed on July 27, 2021 (Doc. 24), after the deadline to respond to the present motion, Plaintiff asserts that he “has reviewed numerous pleadings filed by Defendants and does not wish to change the venue from Judge Wendy W. Berger back to Judge Roy B. Dalton, Jr.”

Recommended in Orlando, Florida on July 28, 2021.

A handwritten signature in black ink that reads "Leslie R. Hoffman". The signature is written in a cursive style and is positioned above a horizontal line.

LESLIE R. HOFFMAN
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge
Counsel of Record
Unrepresented Parties