

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Case No.: 2019-CP-07-02279

Wilmington Savings Fund Society, FSB, not)
in its individual capacity, but solely as owner)
trustee for CSMC 2018-RPL6 Trust,)

Plaintiff,)

v.)

Rex A. Field, et al,)

Defendants.)

v.)

Wilmington Savings Fund Society, FSB, not)
in its individual capacity, but solely as owner)
trustee for CSMC 2018-RPL6 Trust, Federal)
National Mortgage Association, et al,)

*Counterclaim)
Defendants/Third-)
Party Defendants.*)

ORDER

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SC Court of Appeals

This matter came before the Court to be heard on January 21, 2025 on the following motions: Plaintiff and Third-Party Defendants' Renewed Motion to Strike Jury Demand and Request for Order of Reference to Master in Equity filed May 20, 2024; Defendants' Motion to Dismiss Plaintiff's Complaint and/or for Judgment on Pleadings filed May 29, 2024; Defendants' Motion to Sanction Plaintiff and/or Compel Interrogatories and Production and to Deem Admissions Admitted filed June 13, 2024; and Defendants' Motion to Sanction Third-Party Defendants and/or Compel Interrogatories and Production and to Deem Admissions Admitted filed January 10, 2025. In attendance were Ben Milam as counsel for Plaintiff and Third-Party Defendants, as well as the Defendants, Rex A. Field and Tracy L. Field. Having reviewed the

motions, pleadings, and other matters filed with the Court, having heard oral arguments, and being otherwise fully informed and advised, the Court finds and concludes as follows:

1. On April 20, 2021, the Honorable Bentley Price entered an order striking the Defendants' jury demand. On June 14, 2023, this ruling was affirmed by the South Carolina Court of Appeals, which found that the trial court correctly determined that the Fields' counterclaims were permissive rather than compulsory.

2. Between the date of Judge Price's ruling striking the jury demand and its affirmance by the Court of Appeals, Defendants filed a Second Amended Answer, Counterclaims, and Third-Party Complaint. The Defendants' new pleading includes 9 causes of action that were part of the pleadings before the Court at the time of Judge Price's ruling, including claims under the South Carolina Unfair Trade Practices Act; Civil Conspiracy; Fraud and Misrepresentation; Slander of Title; Libel and Slander; the Fair Debt Collection Practices Act; Unjust Enrichment; Quiet Title; and Abuse of Process. Any attempt to revive a jury demand as to these claims is barred by the law of the case doctrine.

3. The Second Amended Answer, Counterclaims, and Third-Party Complaint additionally contains two additional causes of action for Breach of Contract and under the Fair Credit Reporting Act ("FCRA"). Both of the new causes of action are predicated on factual allegations that were previously made in Defendants' First Amended Answer, Counterclaims, and Third-Party Complaint filed March 25, 2021. The Breach of Contract and FCRA claims do not introduce new factual issues that were not previously in dispute, and do not revive the Defendants' right to demand a jury trial following the prior rulings of this Court and the Court of Appeals.

4. The Court additionally determines that Defendants' counterclaim under FCRA is permissive, and finds that the main purpose of the Breach of Contract counterclaim is to contest

matters that are directly at issue in the foreclosure action, namely the validity of the mortgage debt. Third-party claims are necessarily permissive, and not compulsory. Plaintiff and Third-Party Defendants' Renewed Motion to Strike the Jury Demand is due to be granted.

5. The Court finds that there is good cause to refer this action, in its entirety, to the Honorable James J. Wegmann as Beaufort County Master in Equity pursuant to S.C. Rule of Civ.P. 53(b).

6. The Court finds that Plaintiff has alleged sufficient facts in the Complaint to assert that it is the real party in interest with standing to enforce the Note and Mortgage. Additionally, at the hearing, Plaintiff's counsel presented an original promissory note, endorsed in blank, as evidence of Plaintiff's right to enforce the Note. Accordingly, Defendants have failed to show good cause to dismiss the Complaint, and Defendants' Motion to Dismiss must be denied.

7. At the hearing, Defendants stated that Third-Party Defendant Wilmington Savings Fund Society, FSB in its individual capacity ("Wilmington FSB") had not provided a signed verification under oath for its interrogatory responses. The Court orally instructed counsel for Wilmington FSB to provide verified responses to Defendants within 30 days. On January 31, 2025, counsel for Wilmington FSB filed a Certificate of Service of Verified Discovery Responses for Third-Party Defendant Wilmington Savings Fund Society, FSB to demonstrate compliance with this instruction.

8. The Court finds that the matters raised in the Defendants' two motions seeking discovery sanctions against Plaintiff and Third-Party Defendants were previously heard on April 29, 2022, and determined by the Honorable Jennifer B. McCoy in orders entered May 19, 2022, and in orders entered June 15, 2022 denying motions to reconsider. Defendants have not raised any additional matters in their motions for which discovery sanctions or other relief would be

proper. Any additional disputes over discovery in this action can be determined by the Master in Equity.

IT IS THEREFORE ORDERED AND ADJUDGED:

- A. Plaintiff and Third-Party Defendants' Renewed Motion to Strike Jury Demand and Request for Order of Reference to Master in Equity is GRANTED.
- B. The Plaintiff is responsible for paying the required Equity Court fee as set forth in S.C. Code §14-11-310; however, if the Plaintiff's case has ended, any remaining party seeking Affirmative Relief shall be required to pay the applicable fee. For Partition Actions or Lien Foreclosures the fee amount is \$100.00. Supplemental Proceedings pursuant to Rule 69, SCRPC and S.C. Code §15-39-310 et. seq., the fee is \$25.00. In all other cases the fee is \$50.00. The fee shall be paid to the Office of the Master in Equity for Beaufort County within 30 days of the date of this Order or the Master will, without further notice, dismiss the case and vacate the Order of Reference for non-payment of the fee.
- C. Defendants' Motion to Dismiss is DENIED.
- D. Defendants' Motion to Sanction Plaintiff and/or Compel Interrogatories and Production and to Deem Admissions Admitted is DENIED, without prejudice to any determination by the Master in Equity on the proper resolution of any ongoing discovery disputes.
- E. Defendants' Motion to Sanction Third-Party Defendants and/or Compel Interrogatories and Production and to Deem Admissions Admitted is DENIED, without prejudice to any determination by the Master in Equity on the proper resolution of any ongoing discovery disputes.

F. The above-styled action and all claims, counterclaims, third-party claims, and causes of action asserted therein, is referred to the Master in Equity for Beaufort County, the Honorable James J. Wegmann, to make findings of fact and conclusions of law, dispose of any and all issues, matters, and motions raised by the parties, and enter a final judgment in the case, to order a judicial sale and to hear any issues and make any orders after sale or judgment, including but not limited to, issues involving surplus funds pursuant to Rule 71(c) SCRCP, Petitions or Motions relating to Writ of Assistance of any other actions as to possession, and/or removal of property, and issues pursuant to appraisal proceedings under S.C. Code Ann. Section 29-3-680, et seq. (1976 SC Code of Laws, as amended). Any appeal from the final judgment entered by the Master in Equity shall be directed to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

AND IT IS SO ORDERED.

[SIGNATURE PAGE TO FOLLOW]



Beaufort Common Pleas

Case Caption: Wilmington Savings Fund Society Fsb not in its individual , plaintiff, et al VS Rex A Field , defendant, et al
Case Number: 2019CP0702279
Type: Order/Other

So Ordered

s/Marvin H. Dukes III #2785