

DANIEL L. JUNK, J.D.

Pro se Appellant

October 11, 2013

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COURT OF APPEALS

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: *CitiMortgage, Inc. v. Junk and Junk v. CitiMortgage, Inc., et al.*
Consolidated Case Tracking No. 2012-210910.

Dear Ms. Kitchings,

Pursuant to this Court's Order filed on August 9, 2013 ("Order"), *pro se* Appellant Daniel L. Junk respectfully submits this status update in the above referenced appeal. Debtors-in possession ("DIP")/Appellants' Chapter 11 bankruptcy action remains pending, Case No. 13-55139, in the United States Bankruptcy Court, Southern District of Ohio, Eastern Division, before the Honorable John E. Hoffman. In my previous update dated October 11, 2013, I stated to the Court that CitiMortgage had not yet filed a proof of claim ("POC") in the bankruptcy action as of that date. At that time, I was unaware that CitiMortgage had filed a claim on October 4, 2013, and CitiMortgage subsequently filed an amended proof of claim ("Amended POC") on October 17, 2013. The last day to file a proof of claim was Monday, November 4, 2013.

The CitiMortgage POC and Amended POC make a claim for the entire amount of the alleged debt, interest, penalties, etc., purportedly evidenced by the alleged note even though CitiMortgage's claim before this Court is solely for the value of the property. In South Carolina, CitiMortgage is suing only on the mortgage and not the alleged promissory note. Further, CitiMortgage specifically waived any personal and/or deficiency judgment against the Junks in South Carolina, rendering the value of the property solely as the amount of damages sought.

CitiMortgage has not moved to lift the bankruptcy automatic stay of the foreclosure action.¹ Neither MERS, Bayview nor CitiMortgage filed a claim against the Junks for the

¹ On August 9, 2013, this Court issued an order staying the Junks' pre-petition appeal of the dismissal of the third-party complaint as improper and the appeal of the decision denying a motion for default judgment in the third-party

satisfaction of the purported mortgage that each has alleged was a fraudulent act by the Junks. Riley Pope & Laney, Roy Laney, Heidi Carey and T. Lowndes Pope did not file a claim in the bankruptcy action against the Junks for malicious prosecution which each has alleged against the Junks as a counterclaim in South Carolina to the Junks' third party complaint. It is the Junks' position that said pre-petition claims pending in South Carolina against the Junks are now barred by operation of Federal Law as a result.

The copy of the promissory note attached to both the POC and the Amended POC is a copy of a different note than that which has been presented to this Court and the court below as the original note in the following ways:

- (a) The document ID is missing from both the POC and the Amended POC copy as filed.
- (b) The Application ID is missing from both the POC and the Amended POC copy as filed.
- (c) There is a barcode on both the POC and the Amended POC copy that is not on the version submitted in South Carolina.
- (d) The indorsement is allegedly in blank in both the POC and the Amended POC as filed as opposed to containing an alleged undated specific indorsement to CitiMortgage from Danielle Sterling on behalf of American Home Mortgage ("AHM") as sworn to before this Court and the lower court.

The copy of the alleged mortgage as filed in both the POC and the Amended POC has been materially altered in numerous ways when compared to copy of the alleged mortgage filed before this Court:

- (a) The clerk's and/or other's markings are missing from both the POC and the Amended POC copy as filed.
- (b) The MIN identifying AHMHI as the MERS 1 principal for which MERS 1 purportedly claims legal title to the Oldfield Property is missing from both the POC and the Amended POC copy as filed.
- (c) The document ID is missing from both the POC and the Amended POC copy as filed.
- (d) The Application ID is missing from both the POC and the Amended POC copy as filed.

complaint as moot; however, that order did not affect the automatic stay of the pre-petition foreclosure action brought by Bayview/CitiMortgage against the Junks.

- (e) The Tax Map ID is missing from both the POC and the Amended POC copy as filed.
- (f) The "Fixed/Adjustable Rate Rider" constituting four (4) pages of the copy of the Refi MOM filed in South Carolina is missing from both the POC and the Amended POC copy as filed.
- (g) The "Planned Unit Development Rider" constituting three (3) pages of the copy of the Refi MOM filed in South Carolina is missing from both the POC and the Amended POC copy as filed.

The purported assignment from MERS to Bayview is materially altered from the copy of the assignment as filed in the South Carolina Foreclosure Action in the following ways:

- (a) The clerk's and/or other's markings are missing from the POC copy as filed.
- (b) The Bayview Loan Number is missing from the POC copy.
- (c) The Borrower name and loan amount is missing on the POC copy.
- (d) The Instrument number for the Refi MOM as recorded in the South Carolina Register of Deeds is missing on the POC copy.

The copy of the purported assignment of the note and mortgage in both the POC and the Amended POC is from MERS to Bayview despite the fact that CitiMortgage has sworn by affidavit under the penalty of perjury before this Court and the lower court that Bayview has never been in the chain of title of the note. On its face, the POC does not even evidence CitiMortgage in the chain of title of either the note or in the chain of title of assignments.

On November 5, 2013, DIP, through its special counsel, filed an adversary proceeding² for Declaratory Judgment to Determine the Validity and Priority of Liens; to Avoid Transfers Pursuant to 11 U.S.C. §544 and South Carolina Law; To Recover Property Pursuant to 11 U.S.C. § 550; including claims against various Respondents' counsel in this action Nelson Mullins, Rush Smith, Brian Crotty and Michael Anzelmo for Fair Debt Collection Practices Act ("FDCPA") violations, along with Debtors' Objection and Counterclaim to Amended Proof of Claim of CitiMortgage, Inc. [Claim No. 6] against the following parties that are also defendants in the South Carolina action currently pending before this Court:

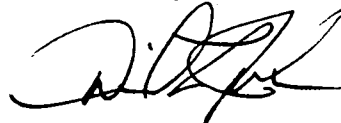
- CitiMortgage, Inc.
- MERSCORP Holdings, Inc., f/k/a MERSCORP, Inc.
- Mortgage Electronic Registration Systems, Inc.
- Bayview Loan
- Riley Pope & Laney,
- Heidi Carey, Esq.

² Adv. Proc. No. 13-02390

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| • Servicing, LLC | • LLC | |
| • Roy Laney, Esq. | • T. Lowndes Pope, Esq. | • Security Connections, Inc. |
| • Krystal Hall | • Jennifer Oakes | • Robert G. Hall |
| • Colonial Coast Title Agency, Inc. | • Lawyers Title Insurance Corporation | • American Home Mortgage Holdings, Inc. |

CitiMortgage has until December 9, 2013, to respond to both the DIP's objection its Amended POC and DIP's Adversary Complaint.

Sincerely,



Daniel L. Junk, J.D.
Pro se Appellant

cc: A. Parker Barnes, Jr., Esq.
Michael J. Anzelmo, Esq.
John T. Lay, Esq.
Sean Michael Bolchoz, Esq.
Susan Taylor Wall, Esq.
James Y. Becker, Esq.
Demitri "Jim" Koutrakos, Esq.
Elizabeth Van Doren Gray, Esq.
G. Hamlin O'Kelly, III, Esq.
James G. Lomg, III, Esq.