UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Cynthia Covington v. Aryming Asset Management, LLC; Madison Management Services, LLC; PHH Mortgage Corporation; Veripro Solutions, Inc.; Nationstar Mortgage, LLC; ARY LS 4 LLC; and Does 1–50

Covington · No. 2:25-cv-01734 WBS CSK · Decided September 16, 2025

SUMMARY

The United States District Court for the Eastern District of California granted PHH Mortgage Corporation's motion to dismiss claims arising from a defaulted residential mortgage. The court held that the plaintiff had not adequately pleaded successor liability, breach of the implied covenant of good faith and fair dealing, a violation of 12 C.F.R. § 1026.41, or a California Unfair Competition Law claim against PHH. The dismissal was without prejudice, and the plaintiff was granted 14 days to amend.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	William B. Shubb
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 16, 2025
DOCKET	2:25-cv-01734 WBS CSK
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sued defendants in state court asserting contract and statutory claims arising from a defaulted residential mortgage. PHH removed the action to federal court and moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the claims asserted against it.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint states a plausible claim for relief. Conclusory allegations, unwarranted deductions of fact, and unreasonable inferences need not be accepted.

PRECEDENTIAL VALUE	unpublished district court decision
PARTIES	Cynthia Covington v. Aryming Asset Management, LLC, Madison Management Services, LLC, PHH Mortgage Corporation, Veripro Solutions, Inc., Nationstar Mortgage, LLC, ARY LS 4 LLC, Does 1–50

TOPICS

motions to dismiss · civil procedure · mortgages · foreclosure · implied covenant of good faith

PRACTICE AREAS

civil procedure · mortgages · foreclosure · contracts · consumer protection

QUESTIONS PRESENTED

1. Whether plaintiff adequately pleaded that PHH was liable as a successor by merger for the obligations or conduct of Argent and Ocwen.
2. Whether plaintiff stated a claim against PHH for breach of the implied covenant of good faith and fair dealing.
3. Whether plaintiff stated a claim under 12 C.F.R. § 1026.41 based on PHH's alleged failure to provide periodic mortgage statements.
4. Whether plaintiff adequately pleaded a California Unfair Competition Law claim against PHH.

HOLDINGS

1. Plaintiff failed to state a claim that PHH was liable for the actions or obligations of its predecessors because she alleged only that PHH was a successor by merger and did not plead facts showing that PHH acquired all of Ocwen's assets without consideration available to creditors or that the consideration consisted wholly of PHH stock distributed in connection with Ocwen's liquidation.
2. Plaintiff failed to state a claim against PHH for breach of the implied covenant because she did not adequately plead successor liability, a contractual relationship with PHH, or that PHH withheld a benefit due under the loan contract.
3. Plaintiff failed to state a claim against PHH under 12 C.F.R. § 1026.41 because she did not allege that PHH owned or serviced the mortgage loan or otherwise qualified as an entity required to provide periodic statements.
4. Plaintiff failed to state a UCL claim against PHH because she lumped all defendants together and did not identify a specific unlawful, unfair, or fraudulent practice by PHH.

KEY QUOTATIONS

> *"The general rule of successor nonliability provides that where a corporation purchases, or otherwise acquires by transfer, the assets of another corporation, the acquiring corporation does not assume the selling*

> *corporation's debts and liabilities."* (Section III.A)

> *"Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement."* (Section III.B)

> *"A claim under the UCL is generally derivative of some other illegal conduct or fraud committed by a defendant"* (Section III.D)

FACTUAL BACKGROUND

Plaintiff obtained first- and second-lien residential financing from Argent Mortgage Corporation in 2005. Argent later ceased operations, and the loan allegedly transferred among beneficiaries and servicers; in 2024, the beneficial interest was transferred to Nationstar and then ARY LS 4 LLC. Plaintiff later received demands exceeding $180,000, a notice of default was recorded, and a trustee's sale was recorded in February 2025. Plaintiff alleged that PHH, as a successor to Ocwen and ultimately Argent, was liable for predecessor conduct, but did not allege facts showing that PHH owned or serviced the loan or assumed the alleged obligations.

PROCEDURAL HISTORY

Plaintiff filed the state-court action on May 16, 2025. PHH removed it on June 19, 2025, and plaintiff filed a first amended complaint on July 17, 2025. The district court granted PHH's motion to dismiss Counts III, V, and VII as against PHH, while granting plaintiff fourteen days to amend if she could do so consistently with the order.

DISPOSITION

other

CASES CITED

- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001)
- Fisher v. Allis–Chalmers Corp. Prod. Liab. Tr., 95 Cal. App. 4th 1182, 1188 (2002)
- City of Los Angeles v. Wells Fargo & Co., 22 F. Supp. 3d 1047, 1062 (C.D. Cal. 2014)
- CenterPoint Energy, Inc. v. Superior Ct., 157 Cal. App. 4th 1101, 1120 (2007)
- Ray v. Alad Corp., 19 Cal. 3d 22, 28, 560 P.2d 3, 7 (1977)
- Schwartz v. Pillsbury Inc., 969 F.2d 840, 846 (9th Cir. 1992)
- Marsu, B.V. v. Walt Disney Co., 185 F.3d 932, 937 (9th Cir. 1999)
- Guebara v. Allstate Ins. Co., 237 F.3d 987, 992 (9th Cir. 2001)
- Hammes Co. Healthcare, LLC v. Tri-City Healthcare Dist., 801 F. Supp. 2d 1023, 1039 (S.D. Cal. 2011)
- Lane v. Vitek Real Est. Indus. Grp., 713 F. Supp. 2d 1092, 1103 (E.D. Cal. 2010)
- Khoury v. Maly's of Cal., Inc., 14 Cal. App. 4th 612, 619 (1993)
- Lingad v. Indymac Fed. Bank, 682 F. Supp. 2d 1142, 1155 (E.D. Cal. 2010)

- Gauvin v. Trombatore, 682 F. Supp. 1067, 1071 (N.D. Cal. 1988)

OPINION

Covington

PER CURIAM.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

----oo0oo---- CYNTHIA COVINGTON, an No. 2:25-cv-01734 WBS CSK individual, Plaintiff, MEMORANDUM AND ORDER RE:

v. DEFENDANT PHH MORTGAGE

CORPORATION’S MOTION TO

ARYMING ASSET MANAGEMENT, LLC, DISMISS

a limited liability company;

MADISON MANAGEMENT SERVICES,

LLC; PHH MORTGAGE CORPORATION; VERIPRO SOLUTIONS, INC.;

NATIONSTAR MORTGAGE, LLC, a

limited liability company; ARY LS 4 LLC, a limited liability company; and DOES 1-50, inclusive, Defendants. ----oo0oo---- Plaintiff Cynthia Covington brought this action against defendants Aryming Asset Management, LLC (“AAM”); Madison Management Services, LLC; PHH Mortgage Corporation (“PHH”); Veripro Solutions, Inc.; Nationstar Mortgage, LLC (“Nationstar”); ARY LS 4 LLS; and Does 1-50, inclusive. (First Am. Compl. (“FAC”) (Docket No. 12).) Plaintiff alleges various contract law and statutory violations against defendants in connection with a defaulted mortgage. (See id.) Defendant PHH moves to dismiss the claims brought against it. (See Docket No. 15.) I. Factual Background This action concerns a residential loan transaction. (FAC ¶ 29.) Plaintiff initially obtained financing for the purchase of her home with an entity called Argent Mortgage Corporation, LLC (“Argent”) in or around September 2005. (See id. ¶ 31.) Defendant PHH is a successor to an entity called Ocwen Loan Servicing, LLC (“Ocwen”), which in turn was a successor to Argent. (Id. ¶ 79.) Plaintiff asserts that “PHH Mortgage Corporation is liable for the actions of its predecessor[] . . . Ocwen.” (Id. ¶ 79.) The financing plaintiff obtained from Argent constituted a “piggyback mortgage,” under which Argent had a first lien loan for 80 percent of the value of the property and a second lien loan for the remaining 20 percent of the value of the property. (See id. ¶ 31.) On September 30, 2005, “a first position Deed of Trust was recorded in favor of Argent . . . to secure a loan in the amount of $412,000,” and “a second position Deed of Trust was recorded in favor of Argent . . . to secure a loan in the amount of $130,000.” (Id. ¶¶ 32-33.) At issue here is the second loan. (Id. ¶ 33.) Argent went out of business in or around 2007. (See id. ¶ 34.) Thereafter, “Plaintiff stopped receiving correspondence related to” the second loan. (Id.) After Argent went out of business, “the loan apparently began transferring between beneficiaries and servicers.” (Id. ¶ 36.) On or about May 22, 2024, Ocwen transferred the beneficial interest in the Deed of Trust to Nationstar pursuant to an Assignment of Deed of Trust. (See id. ¶ 37.) That same day, Nationstar transferred the beneficial interest in the Deed of Trust to ARY LS 4 LLC. (See id. ¶ 38.) Plaintiff began receiving statements demanding over $180,000 for the second loan in July or August 2024. (See id. ¶ 42.) In September 2024, defendant AAM sent Plaintiff a demand for $271,304.71 to be paid by September 30, 2024, upon penalty of foreclosure. (See id. ¶ 44.) A notice of default in the amount of $183,295.90 was recorded for the loan and corresponding property in November 2024. (See id. ¶ 45.) On February 25, 2025, a trustee’s sale of plaintiff’s property was recorded. (See id. ¶ 49.) Plaintiff filed a lawsuit against defendants in state court on May 16, 2025, which PHH removed to federal court on June 19, 2025. (See Docket No. 1 at 1-2.) Plaintiff filed her FAC on July 17, 2025.

II. Legal Standard

Federal Rule of Civil Procedure 12(b)(6) allows for dismissal when a complaint fails to state a claim upon which relief can be granted. See Fed. R. Civ. P. 12(b)(6). “A Rule 12(b)(6) motion tests the legal sufficiency of a claim.” Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001). The inquiry before the court is whether, accepting the allegations in the complaint as true and drawing all reasonable inferences in the plaintiff’s favor, the complaint has alleged “sufficient facts . . . to support a cognizable legal theory,” id., and thereby stated “a claim to relief that is plausible on its face,” Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). Courts are not, however, “required to accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences.” Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001); see Twombly, 550 U.S. at 555.

III. Discussion

A. Successor Liability

As plaintiff’s claims against PHH largely rest upon the theory that PHH is liable for the actions of its predecessors. Under California law, “[t]he general rule of successor nonliability provides that where a corporation purchases, or otherwise acquires by transfer, the assets of another corporation, the acquiring corporation does not assume the selling corporation's debts and liabilities.” Fisher v. Allis– Chalmers Corp. Prod. Liab. Tr., 95 Cal.App.4th 1182, 1188 (2002). However, “a successor company may be liable for a predecessor's actions if: (1) the successor expressly or impliedly agrees to assume the subject liability . . . , (2) the transaction amounts to a consolidation or merger of the successor and the predecessor, (3) the successor is a mere continuation of the predecessor, or (4) the transfer of assets to the successor is for the fraudulent purpose of escaping liability for the predecessor's debts.” City of Los Angeles v. Wells Fargo & Co., 22 F.Supp.3d 1047, 1062 (C.D. Cal. 2014) (citing CenterPoint Energy, Inc. v. Superior Ct., 157 Cal.App.4th 1101, 1120 (2007)) (alterations in original). A transaction constitutes a merger “where one corporation takes all of another's assets without providing any consideration that could be made available to meet claims of the other's creditors or where the consideration consists wholly of shares of the purchaser's stock which are promptly distributed to the seller's shareholders in conjunction with the seller's liquidation.” Ray v. Alad Corp., 19 Cal.3d 22, 28, 560 P.2d 3, 7 (1977) (citation omitted).

Plaintiff states only that “PHH is a successor by merger to Ocwen Loan Serving, LLC, which was a successor by merger to Argent Mortgage Corporation, LLC.” (FAC ¶ 9.) That is insufficient. Plaintiff does not allege that PHH “[took] all of [Ocwen’s] assets without providing any consideration that could be made available to meet claims of [Ocwen’s] creditors or . . . the consideration consist[ed] wholly of shares of [PHH’s] stock.” Ray, 19 Cal.3d at 28, 560 P.2d at 7; cf. Schwartz v. Pillsbury Inc., 969 F.2d 840, 846 (9th Cir. 1992) (finding no successor liability by merger where neither condition in Ray was met).

Accordingly, plaintiff has failed to adequately plead that PHH can be held liable for the actions of its predecessors.

B. Breach of Implied Covenant of Good Faith and Fair Dealing

“Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement.” Marsu, B.V. v. Walt Disney, Co., 185 F.3d 932, 937 (9th Cir. 1999). “In order to establish a breach of the implied covenant of good faith and fair dealing under California law, a plaintiff must show: (1) benefits due under the [contract] were withheld; and (2) the reason for withholding benefits was unreasonable or without proper cause.” Guebara v. Allstate Ins. Co., 237 F.3d 987, 992 (9th Cir. 2001). “[O]nly parties to an agreement can be liable for breach [of] the covenant of good faith.” Hammes Co. Healthcare, LLC v. Tri-City Healthcare Dist., 801 F.Supp.2d 1023, 1039 (S.D. Cal. 2011).

Plaintiff argues that PHH breached the implied covenant of good faith and fair dealing under a theory of successor liability. (See FAC ¶¶ 79-83.) She claims that, because PHH is a “successor by merger” to Argent -- the entity with whom she originally entered into the loan agreement (see FAC ¶ 31.) -- she was in a contractual relationship with PHH that PHH allegedly interfered with. (See FAC ¶¶ 79-80, 83.) As discussed above, plaintiff has failed to plead that PHH is liable for its predecessors’ actions or has assumed its predecessors’ obligations, such as the loan agreement.

Plaintiff also alleges that PHH was independently required to provide her with periodic statements. (See FAC ¶¶ 80-83.) As Plaintiff herself acknowledges, that obligation rests with loan servicers. (See id. ¶ 82.) Plaintiff does not allege that PHH ever serviced her loan (see id. ¶¶ 79-83.), and, correspondingly, that PHH “withheld” any “benefit[] due under the [contract].” Guebara, 237 F.3d at 992.

Accordingly, plaintiff’s claim for breach of the implied covenant of good faith and fair dealing will be dismissed as to PHH.

C. Violation of 12 C.F.R. § 1026.41

12 C.F.R. § 1026.41(a)(1) provides that “[a] servicer of a transaction . . . shall provide the consumer, for each billing cycle, a periodic statement” that meets certain requirements. A “servicer” includes a “creditor, assignee, or servicer, as applicable,” but “[a] creditor or assignee that does not currently own the mortgage loan” at-issue is “not subject to the requirement . . . to provide a periodic statement.” Id. §(a)(2).

Plaintiff’s allegations against PHH for this claim rest again on her theory of successor liability. (See FAC ¶ 99.) As discussed above, plaintiff has failed to plead that PHH is liable for its predecessors’ actions. Plaintiff also does not allege that PHH ever independently owned or serviced the loan agreement as required under 12 C.F.R. § 1026.41(a)(2). (See FAC ¶ 102.) Accordingly, plaintiff's claim under 12 C.F.R. § 1026.41 will be dismissed as to PHH.

D. Violation of Cal. Bus. & Prof. Code § 17200 et seq.

California's Unfair Competition Law ("UCL") prohibits "any unlawful, unfair, or fraudulent business act or practice." Lane v. Vitek Real Est. Indus. Grp., 713 F.Supp.2d 1092, 1103 (E.D. Cal. 2010) (Shubb, J.). A claim under the UCL "is generally derivative of some other illegal conduct or fraud committed by a defendant, and '[a] plaintiff must state with reasonable particularly the facts supporting the statutory elements of the violation.'" Id. (quoting Khoury v. Maly's of Cal., Inc., 14 Cal.App.4th 612, 619 (1993)). Plaintiff's allegations for this claim lump all defendants together. (See FAC ¶¶ 107-113.) By not "identif[ying] a specific practice of" PHH she contends violates the UCL, Lingad v. Indymac Fed. Bank, 682 F.Supp.2d 1142, 1155 ee nee OE OS IIE EIEN (E.D. Cal. 2010) (Burrell, Jr., J.), plaintiff's allegations fall short of "Federal Rule of Civil Procedure 8(a) (2), which requires a short and plain statement of the claim to put defendants on sufficient notice of the allegations against them," Gauvin v. Trombatore, 682 F.Supp.1067, 1071 (N.D. Cal. 1988). Although plaintiff alludes to breach of contract, breach of the implied covenant of good faith and fair dealing, and violations of the FDCPA as the underlying predicates for her UCL claim (see FAC 108.), the court has found that plaintiff's breach of implied covenant claim is inadequately pled, and plaintiff has not alleged that PHH purportedly breached the contract or violated the FDCPA. Accordingly, plaintiff's claim under the UCL will be dismissed as to PHH.

IT IS THEREFORE ORDERED that defendants' motion to dismiss (Docket No. 15) be, and the same hereby is, GRANTED. Counts III, V, and VII of the complaint are DISMISSED as against defendant PHH Mortgage Corporation. Plaintiff is given 14 days from the date of this Order to file an amended complaint if she can do consistent with this Order.

Dated: September 16, 2025 tleom ah. A. be—~

WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE