

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS

Kimberly Banfield Foreman v. Bank of America, N.A., et al.

Foreman · No. 6:25-cv-00280 · Decided December 17, 2025

SUMMARY

The United States District Court for the Eastern District of Texas adopted a magistrate judge’s recommendation and granted Bank of America’s motion to dismiss. The court held that the plaintiff failed to identify a statutory basis for equitable relief and lacked standing to challenge the securitization of her mortgage. The action was dismissed with prejudice, and pending motions were denied as moot.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas
JURISDICTION	United States District Court for the Eastern District of Texas
DECIDED	December 17, 2025
DOCKET	6:25-cv-00280
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed an action seeking equitable relief concerning the securitization of her mortgage. After the case was referred to a magistrate judge, Bank of America moved to dismiss. The magistrate judge recommended dismissal for failure to state a claim, and plaintiff objected by seeking voluntary dismissal without prejudice for lack of subject-matter jurisdiction.
STANDARD OF REVIEW	De novo review of the objected-to portions of the magistrate judge's report and recommendation under 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(3).
PRECEDENTIAL VALUE	Unpublished federal district court order; precedential status not specified.

TOPICS

- motions to dismiss
- standing
- subject matter jurisdiction
- mortgages
- equitable relief

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the complaint stated a claim where plaintiff sought equitable relief concerning mortgage securitization without identifying a statutory basis for the requested relief.
2. Whether plaintiff alleged facts establishing standing to challenge the securitization of her mortgage.
3. Whether the action should be dismissed for lack of subject-matter jurisdiction based on plaintiff's assertion that she preferred to proceed in state court.
4. Whether the action should be dismissed with prejudice under the magistrate judge's recommendation.

HOLDINGS

1. The complaint failed to state a claim because plaintiff did not identify a statutory basis for the requested relief and instead asserted an unrecognized entitlement to equitable relief.
2. Plaintiff failed to allege facts showing that she had standing to challenge the securitization of her mortgage.
3. Dismissal for lack of subject-matter jurisdiction was not appropriate because plaintiff did not show that the parties were citizens of the same state or that the amount in controversy was deficient.
4. The court granted Bank of America's motion to dismiss and dismissed the action with prejudice.

KEY QUOTATIONS

"A complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." (at 1)

"As such, dismissal for lack of jurisdiction is not appropriate." (at 2)

"The court grants defendant's motion to dismiss (Doc. 6) and dismisses this action with prejudice." (at 2)

FACTUAL BACKGROUND

Plaintiff challenged the securitization of her mortgage and sought equitable relief, but did not identify a statutory basis for the requested relief. The complaint also did not allege facts showing that plaintiff had standing to challenge the securitization or assignment of the mortgage. Plaintiff later stated that she preferred to proceed in state court but did not allege facts showing a lack of federal subject-matter jurisdiction.

PROCEDURAL HISTORY

The magistrate judge recommended granting Bank of America's motion to dismiss because the complaint identified no statutory basis for relief and failed to allege facts establishing standing. The district court construed plaintiff's motion to dismiss without prejudice as an objection to the report and recommendation, reviewed the objections de novo, accepted the report, granted the motion to dismiss, and dismissed the action with prejudice.

DISPOSITION

dismissed

CASES CITED

- Sigaran v. U.S. Bank National Association, 560 F. App'x 410, 413 (5th Cir. 2014) (per curiam) (unpublished)
- Lewis v. Lynn, 236 F.3d 766, 768 (5th Cir. 2001) (per curiam)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS No. 6:25-cv-00280 Kimberly Banfield Foreman, Plaintiff, V. Bank of America, N.A., et al., Defendants. ORDER Plaintiff filed this action seeking equitable relief concerning the securitization of her mortgage. Doc. 1.

The case was referred to a magistrate judge. Defendant Bank of America then filed a motion to dismiss. Doc. 6. The magistrate judge issued a report recommending that defendant's motion be granted and that the complaint be dismissed for failure to state a claim. Doc. 14 at 4. Thereafter, plaintiff filed a motion to dismiss without prejudice for lack of subject-matter jurisdiction.

The court construes that motion as an objection to the report. The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). A complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2).

The report recommends dismissal because plaintiff does not identify a statutory basis for seeking relief. Rather, plaintiff asserts an unrecognized entitlement to relief in equity. As such, the complaint failed to allege facts showing that plaintiff has standing to challenge the securitization of her mortgage. See Sigaran v. U.S. Bank Nat'l Ass'n, 560 F. App'x 410, 413 (5th Cir.

2014) (per curiam) (unpublished) (holding that the plaintiffs lacked standing to challenge the assignment of a mortgage where the plaintiffs did not allege that they were third-party beneficiaries). -I- The objections state that plaintiff seeks a voluntary dismissal without prejudice pursuant to Fed. R. Civ. P. 41(a)(2) due to an alleged lack of subject-matter jurisdiction.

Plaintiff now prefers to proceed in state court, but the objections do not allege facts showing that the parties are citizens of the same state or that the amount in controversy is deficient. In other words, plaintiff has not shown that this court lacks subject-matter jurisdiction.

As such, dismissal for lack of jurisdiction is not appropriate. Having reviewed the magistrate judge's report de novo, and being satisfied that it contains no error, the court accepts the report's findings and recommendations.

The court grants defendant's motion to dismiss (Doc. 6) and dismisses this action with prejudice. See *Lewis v. Lynn*, 236 F.3d 766, 768 (5th Cir. 2001) (per curiam) (stating that where defending party establishes that plaintiff has no cause of action, the defense generally inures to the benefit of a non-appearing co-defendant). Any pending motions are denied as moot.

So ordered by the court on December 17, 2025. jf (Lino BARKER United States District Judge -2-