

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

PHH Mortgage Corporation v. Bernice Atkins

PHH Mortgage · No. 4:24-cv-03111 · Decided November 26, 2025

SUMMARY

The United States District Court for the Southern District of Texas adopted a magistrate judge’s Report and Recommendation recommending attorney fees after default judgment in a mortgage dispute involving a statutory probate lien and nonjudicial foreclosure. The court ordered Bernice Atkins to pay PHH Mortgage Corporation \$3,410 in attorney and paralegal fees and \$405 in costs.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Charles Eskridge
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	November 26, 2025
DOCKET	4:24-cv-03111
DISPOSITION	other
PROCEDURAL POSTURE	After entering default judgment against Defendant, the district court considered Plaintiff's motion for attorney fees following a magistrate judge's Report and Recommendation recommending that the motion be granted. No party filed objections.
STANDARD OF REVIEW	The district court reviews de novo those portions of a magistrate judge's report and recommendation to which a party specifically objects, and may accept unobjected-to portions absent clear error on the face of the record.
PRECEDENTIAL VALUE	Unknown; federal district court order adopting a Report and Recommendation.

TOPICS

- attorney fees
- costs
- default judgment
- foreclosure
- civil procedure

PRACTICE AREAS

civil procedure

mortgage foreclosure

attorney fees

probate liens

QUESTIONS PRESENTED

1. Whether the magistrate judge's recommendation to grant Plaintiff's motion for attorney fees should be adopted when no party filed objections.
2. Whether Plaintiff should be awarded the recommended attorney and paralegal fees and costs.

HOLDINGS

1. The district court adopted the magistrate judge's Report and Recommendation because no party objected and no clear error appeared upon review of the record, applicable law, and recommendation.
2. Defendant was ordered to pay Plaintiff \$3,410 in reasonable attorney and paralegal fees and \$405 in costs, totaling \$3,815.

KEY QUOTATIONS

"The Report and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court."

"Defendant is ORDERED to pay Plaintiff reasonable attorney and paralegal fees in the amount of \$3,410 and costs in the amount of \$405, for a total of \$3,815."

FACTUAL BACKGROUND

PHH Mortgage Corporation brought a mortgage dispute involving declaratory relief, a statutory probate lien, and nonjudicial foreclosure. Bernice Atkins was served in August 2024 but did not respond, resulting in entry of default and a prior default judgment. Plaintiff sought attorney fees and costs after obtaining that judgment.

PROCEDURAL HISTORY

PHH Mortgage Corporation filed a mortgage dispute seeking declaratory judgment, enforcement of a statutory probate lien, and nonjudicial foreclosure. Defendant was served but failed to respond, and the Clerk entered default. The court previously adopted a Report and Recommendation granting default judgment and entered judgment against Defendant. Magistrate Judge Dena Hanovice Palermo then recommended granting Plaintiff's motion for attorney fees; the district court found no clear error and adopted that recommendation.

DISPOSITION

other

CASES CITED

- United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989)
- Guillory v. PPG Industries, Inc., 434 F.3d 303, 308 (5th Cir. 2005)

- *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc)

OPINION

November 26, 2025 Nathan Ochsner, Clerk UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION PHH MORTGAGE § CIVIL ACTION NO CORPORATION, § 4:24-cv-03111 Plaintiff, § § § vs. § JUDGE CHARLES ESKRIDGE § § BERNICE ATKINS, § Defendant. § ORDER ADOPTING REPORT AND RECOMMENDATION Plaintiff PHH Mortgage Corporation initiated this mortgage dispute in August 2024.

Dkt 1. It brings claims for declaratory judgment, to enforce statutory probate lien, and for nonjudicial foreclosure. Id at ¶¶26–33. Defendant Bernice Atkins was served that month but failed to respond. Dkt 7. The Clerk entered default against Defendant in October 2024. Dkt 11. Plaintiff then moved for default judgment in January 2025. Dkt 14.

The matter was referred for disposition to Magistrate Judge Dena Hanovice Palermo. Dkt 8. Judge Palermo issued a Report and Recommendation in which she recommended that the motion for default judgment be granted. Dkt 15. That was previously adopted, with judgment entered against Defendant. Dkt 16 (order adopting); Dkt 17 (final judgment). Pending is a motion by Plaintiff for attorney fees.

Dkt 18. Judge Palermo issued a further Report and Recommendation recommending that the motion be granted. Dkt 19. The district court reviews de novo those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F.2d 1219, 1221 (5th Cir 1989, per curiam).

The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F.3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir 1996, en banc); see also FRCP 72(b) advisory committee note (1983).

No party filed objections. No clear error appears upon review and consideration of the record, the applicable law, and the Report and Recommendation. The Report and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 19. Defendant is ORDERED to pay Plaintiff reasonable attorney and paralegal fees in the amount of \$3,410 and costs in the amount of \$405, for a total of \$3,815.

SO ORDERED. Signed on November 26, 2025, at Houston, Texas. VABZ. Hon. Charles Eskridge
United States District Judge