UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Martinez v. Specialized Loan Servicing, LLC

Martinez · No. 2:24-cv-1387 WBS AC · Decided April 30, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Specialized Loan Servicing, LLC’s motion to dismiss claims arising from an alleged wrongful foreclosure. The court held that the Fair Debt Collection Practices Act did not apply to the nonjudicial foreclosure or the alleged reinstatement offer, and that the Unfair Competition Law claim lacked adequately alleged economic injury and a predicate violation. The court dismissed all claims and granted the plaintiff twenty-one days to amend.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 30, 2025
DOCKET	2:24-cv-1387 WBS AC
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Specialized Loan Servicing, LLC moved to dismiss the First Amended Complaint under Federal Rule of Civil Procedure 12(b)(6), and alternatively under Rule 12(b)(7) for failure to join an indispensable party. The court granted the motion under Rule 12(b)(6), dismissed the claims, and granted plaintiff twenty-one days to amend.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court considers whether the complaint states a claim upon which relief can be granted. Leave to amend is governed by Federal Rule of Civil Procedure 15(a)(2), which requires that leave be freely given when justice so requires.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Christopher Martinez v. Specialized Loan Servicing, LLC, Secured Funding Corporation, Does 1-50

TOPICS

motions to dismiss · fair debt collection · wrongful foreclosure · consumer protection · civil procedure

PRACTICE AREAS

civil procedure · foreclosure law · consumer protection · fair debt collection · real estate remedies

QUESTIONS PRESENTED

1. Whether plaintiff's Fair Debt Collection Practices Act claim based on nonjudicial foreclosure and a reinstatement offer stated a claim.
2. Whether plaintiff's California Unfair Competition Law claim stated a claim, including whether plaintiff alleged a cognizable economic injury and statutory standing.
3. Whether the claims plaintiff conceded should be dismissed should nevertheless be dismissed.
4. Whether plaintiff should receive leave to amend under Federal Rule of Civil Procedure 15(a)(2).

HOLDINGS

1. The FDCPA does not apply to the nonjudicial foreclosure at issue because enforcement of a security interest through nonjudicial foreclosure does not constitute an attempt to collect money from the debtor.
2. Plaintiff failed to state a UCL claim because he did not allege a cognizable economic injury or statutory standing, and he also failed to adequately allege an unlawful or unfair business practice.
3. The claims for violation of the Truth in Lending Act, breach of contract, breach of the implied covenant of good faith and fair dealing, violation of California Civil Code section 2924.17, and declaratory relief were dismissed because plaintiff conceded dismissal of those claims.
4. Plaintiff was granted twenty-one days to file an amended complaint if he could do so consistently with the order.

KEY QUOTATIONS

> *"the enforcement of a security interest does not entail an attempt to collect money from the debtor."* (at 3)

> *"this policy is to be applied with extreme liberality."* (at 4)

FACTUAL BACKGROUND

Plaintiff and his wife purchased a residence in 2001, and plaintiff later obtained a $111,800 home equity line of credit secured by the property. Plaintiff filed for Chapter 7 bankruptcy in 2008, received a discharge, and alleged that he stopped receiving loan statements for more than fifteen years. A notice of default was recorded in June 2023, followed by a reinstatement offer and a notice of sale recorded in January 2024; plaintiff then brought claims concerning the foreclosure and debt-servicing conduct.

PROCEDURAL HISTORY

Plaintiff filed an action challenging the alleged wrongful foreclosure of his residence and asserted seven claims against Specialized Loan Servicing, LLC. Plaintiff conceded that five claims should be dismissed and sought leave to amend. The court dismissed the remaining FDCPA and UCL claims and granted leave to file an amended complaint; it did not reach the Rule 12(b)(7) issue.

DISPOSITION

other

CASES CITED

- Natividad v. Wells Fargo Bank, N.A., No. 3:12-cv-03646, 2013 WL 2299601, at *3-11 (N.D. Cal. May 24, 2013)
- Obduskey v. McCarthy & Holthus LLP, 586 U.S. 466, 474-79 (2019)
- Distor v. U.S. Bank NA, No. C 09-02086, 2009 WL 3429700, at *3-5 (N.D. Cal. Oct. 22, 2009)
- Beaver v. Tarsadia Hotels, 816 F.3d 1170, 1177-81 & n.5 (9th Cir. 2016)
- Barnes v. Routh Crabtree Olsen PC, 963 F.3d 993, 997-98 (9th Cir. 2020)
- A.B. Concrete Coating Inc. v. Wells Fargo Bank, Nat'l Ass'n, 491 F. Supp. 3d 727, 737-38 (E.D. Cal. 2020)
- Hood v. Superior Ct., 33 Cal. App. 4th 319, 323-24 (1995)
- Shupe v. Nationstar Mortg. LLC, 231 F. Supp. 3d 597, 605-06 (E.D. Cal. 2017)
- Kwikset Corp. v. Superior Ct., 51 Cal. 4th 310, 321-22 (2011)
- Herring Networks, Inc. v. Maddow, 8 F.4th 1148, 1160-61 (9th Cir. 2021)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 ----oo0oo---- 11 12 No. 2:24-cv-1387 WBS AC 13 CHRISTOPHER MARTINEZ, an individual, 14 Plaintiff, ORDER RE: MOTION TO DISMISS 15 v. 16 SPECIALIZED LOAN SERVICING, LLC, 17 a limited liability company; SECURED FUNDING CORP., a 18 corporation; and DOES 1-50, inclusive, 19 Defendants.

20 21 ----oo0oo---- 22 Christopher Martinez (“plaintiff”) brought this action 23 against Specialized Loan Servicing, LLC (“defendant”), alleging 24 that it wrongfully foreclosed on his residence at 7096 Ludlow 25 Dr., Roseville, CA 95747 (“the property”). (First Am. Compl. 26 (“FAC”) (Docket No. 22).) Defendant now moves to dismiss. 27 (Docket No. 27.) 28 On January 23, 2001, plaintiff and his wife purchased 1 the property via grant deed.

(FAC ¶ 15.) On November 7, 2006, 2 plaintiff used his equity in the property to obtain a home equity 3 line of credit from co-defendant Secured Funding Corporation for 4 $111,800.00.1 (Id. ¶ 16.) Defendant services this loan. (Id.) 5 On May 6, 2008, plaintiff filed for chapter 7 bankruptcy, which 6 was discharged on August 11, 2008. (Id. ¶¶ 17-18.) Plaintiff 7 believed the bankruptcy extinguished his loan obligations to 8 defendants.

(Id. ¶ 18.) Plaintiff stopped receiving monthly 9 statements on the loan for more than 15 years. (Id.) 10 On June 22, 2023, a notice of default was recorded on 11 the property and stated that plaintiff owed $157,088 on the loan. 12 (Id. ¶ 20.) Between June 22, 2023, and July 26, 2023, plaintiff 13 attempted to cure the default informally by contacting defendant.

(Id. ¶¶ 23-24.) Defendant then offered to reinstate the loan for $159,596.47, which included about $40,000 in additional interest payments, and it gave plaintiff a week to consider the offer. (Id. ¶¶ 24-25.) Despite attempting to refinance the loan, plaintiff did not accept defendant’s offer. (Id. ¶¶ 25-26.)

On January 31, 2024, a notice of sale was recorded on the property, which precipitated this litigation. (Id. ¶ 27.) Defendant moves to dismiss on the ground that plaintiff “fails to state a claim upon which relief can be granted.” See Fed. R. Civ. P. 12(b)(6) (cleaned up).[2] Plaintiff brings seven 1 Co-defendant Secured Funding Corporation has not yet appeared in the matter.

2 Defendant also moves to dismiss on the ground that plaintiff failed to join an indispensable party under Federal Rules of Civil Procedure 12(b)(7) and 19(a)-(b). (See Docket No. 27-1 at 16.) The court need not reach the issue here, and it claims against defendant for: (1) violation of the federal Truth in Lending Act, 15 U.S.C. § 1637; (2) breach of contract on a third-party beneficiary theory; (3) breach of the implied covenant of good faith and fair dealing; (4) violation of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692e(A), 1692f(1); (5) violation of California Civil Code section 2924.17; (6) violation of the Unfair Competition Law (“UCL”), Cal. Bus. & Prof.

Code § 17200; and (7) declaratory relief. (See FAC ¶¶ 31-75.) Plaintiff concedes that the first, second, third, fifth, and seventh claims should be dismissed and requests leave to amend. (See Docket No. 29 at 8-12.)

Accordingly, those claims will be dismissed.[3] Plaintiff argues that the fourth claim should not be dismissed because the FDCPA applies to defendant. (See Docket No. 29 at 12-13.) To support his position, plaintiff cites several cases which are no longer good law. See, e.g., Natividad v. Wells Fargo Bank, N.A., No. 3:12-cv-03646, 2013 WL 2299601, at *3-11 (N.D.

Cal. May 24, 2013), abrogated by Obduskey v. McCarthy & Holthus LLP, 586 U.S. 466, 474-79 (2019); Distor v. U.S. Bank NA, No. C 09-02086, 2009 WL 3429700, at *3-5 (N.D. Cal. Oct. 22, 2009), overruled by Beaver v. Tarsadia Hotels, 816 F.3d 1170, expresses no opinion on whether all indispensable parties have been joined. 3 The court notes that declaratory relief is a remedy, not an independent claim, under California law.

See A.B. Concrete Coating Inc. v. Wells Fargo Bank, Nat’l Ass’n, 491 F. Supp. 3d 727, 737-38 (E.D. Cal. 2020) (Brennan, J.) (citing Hood v. Superior Ct., 33 Cal. App. 4th 319, 323-24 (2d Dist. 1995)). 1180-81 & n.5 (9th Cir. 2016).

The issue with plaintiff’s authorities is that they do not account for the Supreme Court’s holding in Obduskey that non-judicial foreclosure does not fall within the ambit of the FDCPA.

See 586 U.S. at 474-79. Subsequently, the Ninth Circuit made it clear that “the enforcement of a security interest does not entail an attempt to collect money from the debtor.” Barnes v. Routh Crabtree Olsen PC, 963 F.3d 993, 997-98 (9th Cir.

2020) (citing Obduskey, 586 U.S. at 474-79). Thus, the FDCPA does not apply to the foreclosure at issue here, and the fourth claim will be dismissed. Plaintiff’s counsel argued in conclusory fashion that the fourth claim should not be dismissed on the ground that defendant’s reinstatement offer under California Civil Code section 2924c is still actionable pursuant to § 1692f(1) of the FDCPA even after Obduskey.[4] (See also FAC ¶¶ 24-25, 51-53 (alleging reinstatement offer violates the FDCPA).)

Plaintiff has not provided, nor is the court aware of, any authority indicating that defendant making such a reinstatement offer, much less at plaintiff’s own behest, violates any part of the FDCPA. Plaintiff’s sixth claim alleges defendant violated the UCL, which “proscribes the use of any ‘unlawful, unfair or fraudulent business act or practice.’” Beaver, 816 F.3d at 1177- [4] The Court in Obduskey only excepted from its holding one isolated subsection of the FDCPA: § 1692f(6), which uses a unique definition of “debt collector” distinct from the definition applicable to § 1692f(1).

See 586 U.S. at 468-69, 473-79. As a result, Obduskey and the Ninth Circuit’s subsequent decision in Barnes still apply to plaintiff’s fourth claim regarding defendant’s reinstatement offer. 78 (quoting Cal. Bus. & Prof. Code § 17200). A claim arising under the UCL requires “that plaintiffs suffered an economic injury and that the alleged injury was a result of the violations.” Shupe v. Nationstar Mortg.

LLC, 231 F. Supp. 3d 597, 605-06 (E.D. Cal. 2017) (England, J.) (cleaned up) (citing Kwikset Corp. v. Superior Ct., 51 Cal. 4th 310, 321-22 (2011)). In Shupe, this court dismissed a UCL plaintiff’s claim for lack of statutory standing where the complaint did not allege that a nonjudicial foreclosure sale was still pending. See id. Here, plaintiff gives no indication that the foreclosure sale is still pending or that his house has been sold yet.

(See FAC ¶¶ 13-20, 23-27, 64-70.) Plaintiff has therefore not alleged a cognizable economic injury under the UCL. Even if plaintiff had established statutory standing, he still fails to state a violation of the UCL. Plaintiff alleges that defendant violated the “unfair” and “unlawful” prongs of the UCL. (Id. ¶¶ 65-67.)

The “unlawful” prong “borrows violations of other laws and treats them as unlawful practices that the unfair competition law makes independently actionable.” Beaver, 816 F.3d at 1177-78. Because each of plaintiff’s other claims will be dismissed, the UCL fails to the extent it is asserted under the “unlawful” prong.

Moreover, plaintiff provides no authority indicating that he states a claim under the UCL's "unfair" prong. (See Docket No. 29 at 14-15.) Accordingly, the sixth claim will be dismissed. Federal Rule of Civil Procedure 15(a)(2) directs the court to "freely give leave [to amend the complaint] when justice so requires." Fed. R. Civ. P. 15(a)(2). "[T]his policy is to be mR ON EOE EI EE IRE III I IDI ES EE applied with extreme liberality." Herring Networks, Inc. v. Maddow, 8 F.4th 1148, 1160-61 (9th Cir.

2021). Accordingly, the court will give plaintiff leave to amend his complaint. IT IS THEREFORE ORDERED that defendant's motion to dismiss (Docket No. 27) be, and the same hereby is, GRANTED. Plaintiff has twenty-one (21) days from the date of this Order to file an amended complaint, if he can do so consistent with this | Order. dh ble (hi. | Dated: April 30, 2025 Pi he Vi (eh UNITED STATES DISTRICT JUDGE