

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,
Plaintiff,

v.

VANNESSA GONSALVES,
as Guardian of the Person and Estate
of PAULO J. DeSOUSA, an
incompetent person; and TAMMIE
CLEMENTS,
Defendants.

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C.A. No. 17-390WES

REPORT AND RECOMMENDATION

PATRICIA A. SULLIVAN, United States Magistrate Judge.

This matter is before the Court for report and recommendation on Plaintiff's partially assented-to Motion for Summary Judgment on Count I of its complaint for declaratory judgment to rescind foreclosure. ECF No. 16. Plaintiff, Federal National Mortgage Association ("Fannie Mae") filed its complaint, ECF No. 1, following an August 2016 foreclosure sale on property, located at 125 Frederick Street, East Providence, Rhode Island, which was co-owned by Defendants joint-tenants Vanessa Gonsalves, as guardian for the owner of record Paulo J. DeSousa, and by Tammie Clements. At the time of the foreclosure and subsequent sale, Fannie Mae's loan servicing entity¹ provided notice only to Vanessa Gonsalves. Fannie Mae filed its present complaint in order to rescind the foreclosure deed recorded after the improperly-noticed sale, which would clear the way for a judicial foreclosure proceeding. ECF Nos. 1, 12.

Following the filing of its complaint, Defendant Vanessa Gonsalves, who is proceeding *pro se*, filed an Assent to Relief Sought by Plaintiff Federal National Mortgage Association, ECF

¹ While Fannie Mae obtained an assignment of the mortgage from Santander Bank in 2015, Santander retained loan servicing responsibilities, along with its counsel, Harman Law Offices. ECF No. 1 ¶¶ 16-19.

No. 9, in which she states at paragraph 3, “Gonsalves assents to the relief sought by Fannie Mae in Count I of the Complaint.” Fannie Mae asserts in its present motion that it has now located and obtained the assent of Defendant Tammie Clements to summary judgment. ECF No. 16 at 1. Moreover, Defendant Clements has filed an Answer to the Complaint, indicating that she admits to its salient allegations. ECF No. 14 ¶¶ 23-26. Given the assent of Defendants, along with the affidavit provided by Fannie Mae’s counsel, providing and attesting to the authenticity of the mortgage documentation, ECF No. 19, this Court finds that Plaintiff’s motion is sufficiently supported by the facts and the law.

Based on the foregoing, I recommend that Plaintiff’s Motion for Summary Judgment on Count I of its complaint be granted. ECF No. 16. As Plaintiff’s complaint contains only one count, this represents the dismissal of the case in its entirety. Any objection to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen (14) days after its service on the objecting party. See Fed. R. Civ. P. 72(b)(2); DRI LR Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court’s decision. See United States v. Lugo Guerrero, 524 F.3d 5, 14 (1st Cir. 2008); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Patricia A. Sullivan
PATRICIA A. SULLIVAN
United States Magistrate Judge
May 21, 2018