

ORDERED.

Dated: April 28, 2022


Caryl E. Delano
Chief United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION
www.flmb.uscourts.gov

In re:

Case No. 2:22-bk-00078-FMD
Chapter 13

Ronald Gillis
dba SW FL Notaries,

Debtor.

**ORDER OVERRULING DEBTOR'S
OMNIBUS OBJECTION TO PROOF OF CLAIMS 10-15**

THIS CASE came before the Court without a hearing to consider Debtor's *Omnibus Objection to Proof of Claims 10-15* (the "Objection").¹ For the reasons explained in this Order, the Objection is overruled.

In January 2008, Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2006-QS8 ("Deutsche Bank") filed an action in the Circuit Court for Charlotte County, Florida (the "State Court") to foreclose Debtor's interest in real property located at 21238 Coachman Avenue, Port Charlotte, Florida (the "Property").² The foreclosure action was litigated in State Court for eight

¹ Doc. No. 81.

² Case No. 2008-CA-000252.

years.³ On July 19, 2016, the State Court entered a Default Final Judgment of Foreclosure against Debtor (the “Final Judgment”).⁴

On January 26, 2022, Debtor filed this Chapter 13 case – his sixth bankruptcy case during the course of the foreclosure action. On February 15, 2022, Deutsche Bank filed a motion for relief from the automatic stay to conclude its foreclosure sale of the Property.⁵ On March 17, 2022, the Court granted Deutsche Bank’s motion and ordered, under 11 U.S.C. § 362(d)(4)(B), that the relief be binding in any other case affecting the Property for a period of two years.⁶

On April 22, 2022, Debtor filed Claims 10 through 15 (the “Claims”) in “unknown” amounts on behalf of (1) Deutsche Bank; (2) Wachovia Mortgage/Wells Fargo NA; (3) Residential Accredit Loans Inc. 2006-QS8; (4) US Bank NA; (5) PHH Mortgage Services; and (6) Ocwen Mortgage Services (collectively, the “Claimants”). The record discloses the following information regarding the Claimants:

(a) Wachovia Mortgage Corporation originated a mortgage loan to Debtor on the Property (the “Mortgage Loan”).⁷

(b) Wachovia thereafter endorsed the note and mortgage underlying the Mortgage Loan to Deutsche Bank as trustee.⁸

(c) In 2006, the Mortgage Loan was placed into the Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2006-QS8 (the “Trust”) pursuant to a Pooling and Servicing Agreement.⁹

³ See Doc. No. 30, pp. 12-25, docket of State Court foreclosure action.

⁴ Doc. No. 30, pp. 7-10.

⁵ Doc. No. 30.

⁶ Doc. No. 53.

⁷ Claim No. 15-1, p. 12, Affidavit of Keaton C. Stoneking, ¶ 4.

⁸ *Id.*

⁹ *Id.*

(d) Although Debtor apparently has contended that U.S. Bank was a trustee of the Trust at some point in the Mortgage Loan history, his contention is not supported by the record.¹⁰

(e) Wachovia was a sub-servicer of the Trust through an agreement with the Master Servicer.¹¹

(f) In 2011, Wachovia merged into and became part of Wells Fargo Bank, NA.¹²

(g) In 2013, the Master Servicer of the Trust was purchased by Ocwen Master Servicing.¹³

(h) Debtor asserts that he mailed a 1099-Misc to Deutsche Bank in 2021, and that Deutsche Bank forwarded the form to PHH Mortgage, but Debtor has not explained the relevance or involvement of PHH Mortgage to the Mortgage Loan.¹⁴

(i) Wells Fargo Bank, N.A., is the current servicing agent of the Mortgage Loan for Deutsche Bank.¹⁵

On the same day that Debtor filed the Claims, he also filed his Objection to the Claims, primarily asserting that Claimants have not proven that they loaned him any money in connection with the Mortgage Loan.

It is well-established that debtors “do not have standing to invalidate [a] Note and mortgage based on alleged inadequacies in its assignment.”¹⁶ In addition, debtors may not use their bankruptcy cases to attack state court final judgments that were entered before the bankruptcy petition was filed. For example, in *In re Lester*,¹⁷ the debtors argued that Nationstar was not entitled to foreclose on their home because of alleged defects in assignments of the debtors’ mortgage. The court denied the

¹⁰ Claim No. 13-1, p. 4; Claim No. 15-1, p. 12, Affidavit of Keaton C. Stoneking, ¶ 4.

¹¹ Claim No.15-1, p. 12, Affidavit of Keaton C. Stoneking, ¶ 5.

¹² *Id.* at ¶ 6.

¹³ *Id.* at ¶ 5.

¹⁴ Claim No. 14-1, p. 4.

¹⁵ Doc. No. 30, pp. 27-29, Affidavit of Tonya R. Caldwell.

¹⁶ *In re Baber*, 523 B.R. 156, 160 (Bankr. E.D. Ark. 2014).

¹⁷ 603 B.R. 187 (Bankr. M.D. Fla. 2019).

debtors' motion to vacate Nationstar's prepetition foreclosure judgment because (1) the *Rooker-Feldman* doctrine precluded the court from reviewing the state court foreclosure judgment,¹⁸ (2) the debtors were precluded by the doctrine of collateral estoppel from relitigating issues that were already litigated and decided in the foreclosure action, and (3) Nationstar was only required to show that it "held" the mortgage, not that it "owned" the mortgage.

Here, some of the Claimants may have been mortgage assignees, mortgage servicers, or parties to a pooling and servicing agreement related to the Mortgage Loan. Debtor, in filing the Claims on Claimants' behalf and then objecting to the Claims on the grounds that Claimants have not proven that they were the mortgage "lenders," is attempting to challenge the State Court's Final Judgment of foreclosure. For the reasons expressed in *Lester*, the Court cannot permit Debtor to circumvent the State Court's Final Judgment by alleging defects in the Mortgage Loan that occurred before the State Court entered the Final Judgment.

Accordingly, it is

ORDERED that Debtor's *Omnibus Objection to Proof of Claims 10-15* (Doc. No. 81) is **OVERRULED**.

The Clerk's Office is directed to serve a copy of this Order on interested parties.

¹⁸ *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L. Ed. 362 (1923); *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L. Ed. 2d 206 (1983). "Because 28 U.S.C. § 1257 grants the U.S. Supreme Court exclusive federal jurisdiction to review state court judgments and 28 U.S.C. § 1331 limits the jurisdiction of district courts to original – not appellate – jurisdiction, the *Rooker-Feldman* doctrine generally recognizes that federal district courts, such as this one, lack jurisdiction to review state court judgments." *In re Lester*, 603 B.R. at 189.