

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH J. TAGGART : CIVIL ACTION
: :
v. : :
: :
CHASE BANK USA, N.A. and : :
JP MORGAN CHASE BANK N.A. : :
d/b/a CHASE HOME FINANCE, LLC : NO. 09-cv-03761-JF

MEMORANDUM

Fullam, Sr. J.

October 29, 2009

This is the second action brought by the *pro se* plaintiff, Kenneth J. Taggart, regarding a 2005 mortgage and loan. The first action, Taggart v. Chase Bank USA, Civil Action No. 09-1533 (E.D. Pa.), was dismissed on June 15, 2009, because the statute of limitations barred the plaintiff's claim. The plaintiff has appealed that dismissal, and the appeal is pending.

Approximately a month after the dismissal, the plaintiff filed a new complaint in the Philadelphia Municipal Court. The defendants removed the case to this Court and filed a motion to dismiss, on the grounds that *res judicata* bars the complaint, and that no viable claim has been stated. A comparison of the two complaints readily reveals that although the plaintiff asserts different causes of action, both lawsuits concern the same mortgage and loan transaction, and any claims for relief should have been raised in the first action (although, as in the first action, the defendants persuasively argue that no viable claim has been stated). In opposing the motion, the

plaintiff refers to Federal Rule of Civil Procedure 60(b), but that Rule does not apply here.

Finally, the defendants seek sanctions pursuant to Federal Rule of Civil Procedure 11, but they have not demonstrated compliance with the safe harbor provision of that Rule. No sanctions will be imposed.

An Order will be entered.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.

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ORDER

AND NOW, this 29th day of October 2009, upon
consideration of the defendants' Motion to Dismiss, and
plaintiff's response, IT IS ORDERED:

1. The defendants' motion is GRANTED. This action
is DISMISSED with prejudice.
2. The Clerk is directed to close the file.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.