

IT IS ORDERED as set forth below:



Date: February 11, 2013

James R. Sacca
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

	}	Case No.: 11-63059-JRS
ANITRA CELESTE PALMER-DAWKINS,	}	
	}	Chapter 13
Debtor.	}	

ORDER

After filing a claim related to Debtor's home mortgage in her Chapter 13 bankruptcy case, BAC Home Loans Servicing, LP ("BAC") transferred its claim to Ocwen Loan Servicing, LLC ("Ocwen"). On December 10, 2012, Ocwen filed a proof of this claim transfer pursuant to Bankruptcy Rule 3001(e)(2). [Doc. 44]. The next day, the Clerk issued a Notice of Filing Proof of Transfer of Claim. [Doc. 45]. This Notice was addressed to BAC and Ocwen, and indicated that objections to the transfer must be filed within 21 days and that if no such timely objection was made, Ocwen would be substituted for BAC as the claimant. No timely objection was made, so Ocwen is now listed on the docket as the claimant.

On January 7, 2013, Debtor filed a letter objecting to the claim transfer from BAC to Ocwen. [Doc. 46]. Her primary objection is that she doesn't feel that Ocwen is properly servicing her loan. The Court cannot sustain her objection for two reasons. First, she filed it after the 21-day deadline had passed. More importantly, Debtor does not have standing to object to a claim transfer.

Bankruptcy Rule 3001(e) governs the transfer of claims in a bankruptcy case. The applicable subsection here is Rule 3001(e)(2), which provides the procedures which must be followed for a transfer of claim other than for security after proof is filed:

If a claim other than one based on a publicly traded note, bond, or debenture has been transferred other than for security after the proof of claim has been filed, evidence of the transfer shall be filed by the transferee. The clerk shall immediately notify *the alleged transferor* by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. *If the alleged transferor files a timely objection* and the court finds, after notice and a hearing, that the claim has been transferred other than for security, it shall enter an order substituting the transferee for the transferor. *If a timely objection is not filed by the alleged transferor*, the transferee shall be substituted for the transferor.

Fed. R. Bankr. P. 3001(e)(2) (emphasis added). The emphasized language plainly indicates that only the transferor has standing to object to a purported transfer of its claim.

Prior to 1991, some courts interpreted Rule 3001 as authorization to monitor the transfer of claims to prevent improper or inequitable conduct. *In re SPM Mfg. Corp.*, 984 F.2d 1305, 1314 n.9 (1st Cir. 1993) (citation omitted). That year, Rule 3001(e) was amended to restrict courts' authority to examine claim transfers. *Id.* The 1991 Advisory Committee Note explains that the purpose of the amendment was "to limit the court's role to the adjudication of disputes regarding transfers of claims," and if a timely objection is made, "to determin[ing] whether a transfer has been made that is enforceable under nonbankruptcy law." *Id.* (quoting Bankr. Rule

3001, Advisory Committee Notes, 1991 Amendment). The amended rule makes clear that the only role for the Court is resolving disputes and that a dispute only exists when the transferor objects to the transfer. *In re Olson*, 120 F.3d 98, 102 (8th Cir. 1997). Under Rule 3001(e) as amended, “third parties, including the Debtor, do not have standing to object to a claim assignment itself.”¹ *In re Lynn*, 285 B.R. 858, 862 (Bankr. S.D.N.Y. 2002) (citation omitted).

Here, BAC has not objected to the claim transfer, so no dispute exists that the Court is authorized to resolve. Although Debtor may not be happy with the results of the transfer, she does not argue that the transfer is unenforceable under nonbankruptcy law or that Ocwen failed to comply with Rule 3001(e). Accordingly, it is hereby

ORDERED that Debtor’s objection to the claim transfer is DENIED.

[END OF ORDER]

¹ At least one court has held that a Chapter 7 trustee has standing to raise the issue of a claimant’s failure to comply with Rule 3001(e)(2). *In re Kreisler*, 331 B.R. 364 (Bankr. N.D. Ill. 2005) *aff’d*, 352 B.R. 671 (N.D. Ill. 2006) *rev’d and remanded on other grounds*, 546 F.3d 863 (7th Cir. 2008). This possible exception does not apply to the instant case because this is a Chapter 13 case, the Debtor (not the trustee) is objecting, and the Debtor has not alleged that Ocwen failed to comply with Rule 3001(e)(2).