



IT IS ORDERED as set forth below:

Date: November 18, 2016

A handwritten signature in black ink, appearing to read "Barbara Ellis-Monro".

**Barbara Ellis-Monro
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:

JAMES B. NORTON, III
a/k/a JIM NORTON,

Debtor.

LESLIE D. COFFEY,

Plaintiff,

v.

JAMES B. NORTON, III
a/k/a JIM NORTON,

Defendant.

CASE NO. 15-67417-BEM

CHAPTER 7

ADVERSARY PROCEEDING NO.
15-5444-BEM

ORDER DISMISSING ADVERSARY PROCEEDING

Leslie Coffey ("Plaintiff") initiated this adversary proceeding on November 24, 2015. [Doc. 1]. James B. Norton III ("Defendant") filed a Motion to Dismiss [Doc. 3] which

was granted in part and denied in part to afford Plaintiff an opportunity to file an Amended Complaint within 30 days. [Doc. 6]. Plaintiff filed an Amended Complaint February 24, 2016. [Doc. 8]. The Court set an evidentiary hearing which was held on October 4, 2016 (the “October Hearing”). At the October Hearing Plaintiff appeared telephonically and the Court set the November Hearing for Plaintiff to present direct evidence regarding his standing in this proceeding. This proceeding came before the Court for a continued evidentiary hearing on November 16, 2016 (the “November Hearing”). At the November Hearing Michael Robl appeared on behalf of Defendant and no appearance was made by Plaintiff or any party on his behalf. At the November Hearing, Defendant proffered that Plaintiff was aware of the November Hearing based on their correspondence and Defendant made an oral motion to dismiss (the “Defendant’s Motion”).

After the November Hearing, the clerk docketed Plaintiff’s Motion for “Dismissal Without Prejudice” (the “Plaintiff’s Motion”)¹.

In an order entered September 14, 2016 (the “Order”) the Court set forth the analysis of Plaintiff’s potential standing with respect to Plaintiff’s claims made as an owner of CNR Holdings, LLC (“CNR”) and that analytic framework is incorporated herein. [Doc. 9]. With respect to Plaintiff’s interest in CNR, Defendant’s Exhibits 1 and 2 establish that Plaintiff was not an individual owner of CNR. Therefore, to the extent that an alleged diminution of assets or value of CNR impacts the bankruptcy estate, Plaintiff does not have standing to pursue any such claims.

The Order identified another potential claim related to Plaintiff’s statements at a hearing on May 18, 2016, that he is the obligor under a promissory note related to 7041 and 7045

¹ Plaintiff’s Motion was filed November 15, 2016 but did not appear on the docket until after the November Hearing.

Maplewood Lane, Chattanooga, Tennessee (collectively the “Property”) purchased by CNR that Plaintiff alleges was wrongfully foreclosed. [May 18, 2016 hearing recording 12:04:06-12:04:13, Def. Ex. 6, p. 3]. Based on the submitted evidence and the record in this matter, it is unclear how the promissory note relates to the actions in the General Sessions Court for Hamilton County (the “Tennessee Court”)². However, it is clear from the record that any claims of wrongful foreclosure or ownership of the Property were resolved by the Tennessee Court against Plaintiff. [Def. Exs. 6, 7]. To the extent that Plaintiff wishes to obtain an order from this Court to set aside the orders of the Tennessee Court with respect to his interest in the Property, this Court would not have jurisdiction under the Rooker-Feldman doctrine. *Lance v. Dennis*, 546 U.S. 459, 463, 126 S. Ct. 1198, 1201 (2006) (“lower federal courts are precluded from exercising appellate jurisdiction over final state-court judgments.”).

In addition Plaintiff failed to appear at the November Hearing. At the October Hearing, Plaintiff was given notice of the date, time, and location of the November Hearing. Based on the October Hearing and Defendant’s proffer, the Court concludes that Plaintiff was aware of this hearing. In addition Plaintiff’s Motion establishes that he has no interest in continuing to prosecute this matter. Plaintiff has not established that he has standing based on some unknown claim and/or based on the promissory note such that dismissal is appropriate. Accordingly, it is now, hereby

ORDERED that Defendant’s Motion is GRANTED;

IT IS FURTHER ORDERED that Plaintiff’s Motion is GRANTED;

IT IS FURTHER ORDERED that this proceeding is DISMISSED without prejudice.

END OF ORDER

²The procedural history over this dispute involves matter 12GS7338 an unlawful detainer action, matter 12GS8257 an action for money damages and back rent, and matter 13GS7486 also an unlawful detainer action all filed in the General Sessions Court for Hamilton County in Tennessee. [Def. Ex. 6, p. 3, 4].

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