APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

No. 4:16-CV-0320

JANOS FARKAS, Plaintiff
v.

Ocwen Loan Servicing, LLC et al.,
Defendants

[Entered: January 17, 2017]

Management Order

1. By January 27, 2017 Ocwen Loan Servicing, LLC will move.
2. By January 3, 2017 Janos Farkas will respond.

Signed on January 17, 2017, at Houston, Texas

Lynn N. Hughes
United States District Judge

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

No. 4:16-CV-0320

JANOS FARKAS, Plaintiff
v.

Ocwen Loan Servicing, LLC et al.,
Defendants

[Entered: July 3, 2017]

Opinion on Judgment

1. Introduction.

A borrower stopped paying his mortgage. The bank through its servicer has tried to foreclose twice; each time the borrower sues to stop it. He will take nothing.

2. Background.

Janos Farkas owns two residential investment properties - Claretfield and Oakview. On May 31, 2006, and June 6, 2006, he borrowed $87,288 and $88,061 from Cornerstone Mortgage Company to buy them. He signed promissory notes that were secured by deeds of trust. Both deeds named Mortgage Electronic Registration Systems, Inc., as Cornerstone's beneficiary with the right to enforce its interests.

After closing, both loans were sold to Residential Funding Corporation. The mortgage servicing rights were transferred to Homecomings Financial, LLC, then to its affiliate GMAC Mortgage, LLC, and finally to Ocwen Loan Servicing, LLC, in February 2013.

On May 31, 2011, Registration Systems assigned the Claretfield deed and note to Deutsche Bank Trust Company Americas. On June 17, 2010, Registration Systems assigned the Oakview deed and note to Deutsche Bank.

A. Default.

Since 2006, Farkas has collected between $ 18,000 and $ 20,000 in annual rental income from

the properties. Despite these revenues, Farkas intentionally defaulted on both loans in December 2010.

On March 4, 2011, GMAC, the servicer at the time, sent Farkas notices of default and intent to accelerate the loans. Two months later, GMAC sent notices of acceleration, declaring all unpaid principal and accrued interest $88,092.20 and $85,773.20 -due and payable. Having received no payments, GMAC sent notices of substitute trustee's sale on June 17, 20II, and July 7,2011. The sales were scheduled for August 2, 2011.

B. 2011 Lawsuit.

On July 27, 20II, Farkas sued Deutsche Bank and GMAC in Texas court for wrongful foreclosure. He challenged (a) Registration System's authority to assign the deeds; and (b) the rights of Deutsche Bank and GMAC as mortgagee and servicer. He said that GMAC should have submitted an affidavit proving its entitlement to the loan payments.

The case was removed, and Deutsche Bank and GMAC moved for summary judgment. The court ruled in their favor; Farkas appealed. The

Fifth Circuit affirmed the district court's judgment on December 2, 2013.[7]

Loan servicing and default notices resumed; foreclosure sales were scheduled for December 6, 2016.

C. This *Lawsuit.*

In January and March of 2015, Ocwen began servicing the loans.

On November 29, 2016, Farkas sued Ocwen, Deutsche Bank, and Power Default Services, Inc., in Texas court. He claims that any foreclosure is barred because (a) Deutsche Bank did not tell him the name of the servicer or where to send payments; and (b) the four-year limitations period to foreclose has expired.

On December 22, 2016, the case was removed. Ocwen and Deutsche Bank move for judgment on the pleadings.

4. Res Judicata.

For the second time, Farkas pretends to be confused about who is servicing his loans. He contends that Ocwen is incapable of initiating the foreclosures because Deutsche Bank never instructed him make payments to Ocwen.

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[7] Farkas v. GMAC Mortgage, LLC, et *al.,* 737 F.3d 338 (5th Cir. 2013)

Having already been rejected by the district court and the court of appeals, Farkas's claim of servicer confusion is barred by *res judicata.*[8]

5. Servicer.

Even if the claim was not barred, Ocwen would still be entitled to foreclose. Farkas pleads no fact to support his apparent confusion about the servicer's identity.

In 2012, as part of GMAC' s bankruptcy, Ocwen purchased the servicing rights to thousands of loans, including the Claretfield and Oakview loans. Farkas received notice of the servicing change in a joint letter sent by GMAC and Ocwen; however, he still says that he does not know where to send payments because Deutsche Bank as mortgagee never told him.

Each time the servicing rights have transferred - from Cornerstone to Homecomings in 2006, then to GMAC in 2009, and to Ocwen in 2013 -the preceding servicer, and not the mortgagee, has notified Farkas of the identity of the succeeding servicer.

Farkas has paid nothing - no principal, interest, taxes, or insurance - since 2010. In the more than six years that he has not met his obligations, only the current servicer has ever demanded payment, told him that he was in default, and attempted to foreclose. Absent a bona-fide claim by a third party to the money that he borrowed and agreed to repay, Farkas cannot say that he is confused about who is servicing his loans

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[8] United Mine Workers v. Gibbs, 383 U.S. 715 (1966); Igal v. Brightstar Info. Tech. Grp., Inc., 250 S.W·3d 78,86 (Tex. 2008); Weaver v. Tex. Capital Bank, N.A., 660 F.3d 900, 907 (5th Cir. 20II)

and where to send payments.[9]

Although Farkas attempts to obfuscate the details, there is no question about whether Ocwen has the right to (a) receive loan payments, and (b) foreclose on the properties.

6. Limitations.

Farkas pleads one new claim; he says that any foreclosure is barred by the four-year statute of limitations.[10] He argues that the loans were accelerated in May 2011 - the Oakview loan on May 13, 2011, and the Claretfield loan on May 16, 2011 - yet the properties were not foreclosed on before the four-year limitations period expired in May 2015.

Ocwen says that the initial accelerations were abandoned when it sent Farkas new notices of default in January and March of 2015. Because the notices demanded less than the full amount due on the loans, Farkas had the opportunity to cure his arrearage.

Ocwen was no longer seeking to collect the full balance of the loans; the 2011 accelerations were abandoned and the limitations period to foreclose was reset.[11]

7. Conclusion.

The fundamental problem with Farkas's litany of lawsuits is that he has not made a single payment in more than six years. Ocwen and

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[9] TEX. BUS. & COMM. CODE § 3.305(c)

[10] TEX. CIV. PRAC. & REM. CODE § 16.035(d)

[11] Clawson v. GMAC Mortg. LLC, 2013 WL 1948128, at *3 (S.D. Tex. May 9, 2013); Boren v. U.S. Nat'l Bank Assoc., 807 F.3d 99,104 (5th Gr. 2015

Deutche Bank may take what they are owed.

Janos Farkas will take nothing from Ocwen Loan Servicing, LLC, and Deutsche Bank Trust Company Americas as trustee, for Residential Accredit Loans, Inc., mortgage asset-backed pass-through certificates, series 2006-OS9.

Signed on July 3, 2017, at Houston, Texas

Lynn N. Hughes
United States District Judge

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

No. 4:16-CV-0320

JANOS FARKAS, Plaintiff
v.

Ocwen Loan Servicing, LLC et al.,
Defendants

[Entered: July 3, 2017]

Partial Dismissal

1. Janos Farkas pleads nothing to suggest that he has been injured by Power Default Services, Inc., or its presumed attempts to notify him of the properties substitute trustee sale

2. Because Farkas's claims against Power Default Services are entirely derivative of his claims against Ocwen and Deutsche Bank, they are dismissed with prejudice.

Signed on July 3, 2017, at Houston, Texas

Lynn N. Hughes
United States District Judge

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

No. 4:16-CV-0320

JANOS FARKAS, Plaintiff
v.

Ocwen Loan Servicing, LLC et al.,
Defendants

[Entered: July 3, 2017]

Final Judgment

Janos Farkas takes nothing from Ocwen Loan Servicing, LLC, Deutsche Bank Trust Company Americas as trustee for Residential Accredited Loans, Inc. mortgage asset-backed pass-through certificates, series 2005-QS9, and Power Default Services, Inc.

Signed on July 3, 2017, at Houston, Texas

Lynn N. Hughes
United States District Judge

APPENDIX F

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

D.C. Docket No. 17-20488

JANOS FARKAS, Plaintiff-Appellant,

v.

OCWEN LOAN SERVICING, L.L.C.; DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE FOR RESIDENTIAL ACCREDIT LOANS, INCORPORATED, MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2006-QS9; POWER DEFAULT SERVICES, INCORPORATED

Defendants-Appellees.

[Filed: February 26, 2018]

Appeal from the United States District Court for the Southern District of Texas
No. 4:16-CV-3720

Before KING, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:*[12]

Plaintiff – Appellant Janos Farkas initiated this action against Defendants - Appellees Ocwen Loan Servicing, LLC, Deutsche Bank Trust Company Americas, and Power Default Services, Inc., claiming that foreclosures of his two residential investment properties were barred. Ocwen and Deutsche Bank filed a motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c). In ruling on this motion, the district court decided that Farkas will take nothing from all three defendants. We AFFIRM

I.

Janos Farkas owns two residential investment properties: one located on Claretfield Court in Humble, Texas (the "Claretfield Property "), and one located on Oakview Creek Lane in Houston, Texas (the "Oakview Property "). On May 31, 2006, Farkas borrowed $87,288 from Cornerstone Mortgage Company ("Cornerstone ") to purchase the Claretfield Property. On June 6, 2006, he borrowed $88,061 from Cornerstone to purchase the Oakview Property. At the origination of these loans, Cornerstone was the lender and mortgage servicer. The loans for the properties were evidenced by promissory notes, which were

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*[12] Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

secured by deeds of trust and signed by Farkas. Both deeds named Mortgage Electronic Registration Systems, Inc. ("MERS"), its successors and assigns, as Cornerstone's beneficiary with the right to enforce Cornerstone's legal interests.

In 2006, after closing, both loans were sold to Residential Funding Corporation. The mortgage servicing rights were transferred to Homecomings Financial, LLC, then to its affiliate GMAC Mortgage, LLC ("GMAC "), and finally to Ocwen Loan Servicing, LLC ("Ocwen "). By June 2011, MERS had assigned the deed and note for each property to Deutsche Bank Trust Company Americas ("Deutsche Bank ").

Farkas defaulted on both loans in December 2010. In March 2011, GMAC sent a notice of default and intent to accelerate the loans. In May 2011, GMAC sent notices of acceleration for both loans, declaring all unpaid principal and accrued interest due and payable. GMAC received no payments from Farkas, so it sent notices of substitute trustee's sales for the properties – both scheduled for August 2, 2011. In July 2011, Farkas sued GMAC and Deutsche Bank in Texas state court for wrongful foreclosure. The case was removed to federal court. GMAC and Deutsche Bank filed a motion for summary judgment, which the district court granted. Farkas appealed. This court affirmed. *Farkas v. GMAC Mortg., L.L.C.* (Farkas I), 737 F.3d 338, 339 (5th Cir. 2013).

In early 2015, Ocwen began servicing the loans. Power Default Services, Inc. ("Power Default"), as an agent for Ocwen, sent notices of substitute trustee's sales for the properties - both scheduled for December 6, 2016. On November 29,

2016, Farkas initiated this action against Ocwen, Deutsche Bank, and Power Default. Farkas claimed that foreclosures of his properties were barred because (1) the mortgagee, Deutsche Bank, did not inform him of the name of the servicer, Ocwen, and (2) the four -year limitations period to foreclose has expired. In December 2016, Ocwen and Deutsche Bank then removed the case to federal court. In January 2017, they filed a motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c). On February 3, 2017, Farkas moved to recuse the district court judge, claiming that the judge was prejudiced against him. The district court denied this motion on February 7, 2017. On July 3, 2017, the district court ruled on the motion and decided that Farkas will take nothing from Ocwen, Deutsche Bank, and Power Default.[13] Farkas timely appealed.

[13] On July 3, 2017, the district court also dismissed Farkas's claims against Power Default with prejudice as Farkas pleaded nothing that suggests he had been injured by Power Default and Farkas's claims against Power Default were entirely derivative of his claims against Ocwen and Deutsche Bank. As we affirm the district court's dismissal of all of Farkas's claims based on the merits, we need not address whether the separate order of partial dismissal of Farkas's derivative claims against Power Default was appropriate. *See United States y. Chacon*, 742 F.3d 219, 220 (5th Cir. 2014) ("We may affirm the district court's judgment on any basis supported by the record." (citing *United States v. Le*, 512 F.3d 128, 134 (5th Cir. 2007)))

II.

A.

"We review a district court's ruling on a Rule 12(c) motion for judgment on the pleadings de novo." *Gentilello v. Rege*, 627 F.3d 540, 543 (5th Cir. 2010) (citing *Great Plains Tr. Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 312 (5th Cir. 2002)). "We evaluate a motion under Rule 12(c) for judgment on the pleadings using the same standard as a motion to dismiss under Rule 12(b)(6) for failure to state a claim." Id. at 543 -44 (citing *Doe v. MySpace, Inc.*, 528 F.3d 413, 418 (5th Cir. 2008)). "To avoid dismissal, a plaintiff must plead sufficient facts to 'state a claim to relief that is plausible on its face.'" Id. (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). As this is a diversity case, we apply Texas substantive law. See *Graper v. Mid - Continent Cas. Co.*, 756 F.3d 388, 391 (5th Cir. 2014).

First, Farkas argues that Ocwen is not a proper mortgage servicer under Texas Property Code § 51.0001(3) and is therefore unable to initiate a foreclosure proceeding under § 51.0025. A "'[m]ortgage servicer' means the last person to whom a mortgagor has been instructed by the current mortgagee to send payments for the debt secured by a security instrument." Tex. Prop. Code § 51.0001(3). Texas Property Code § 51.0025 permits a "mortgage servicer" to administer the foreclosure of property on behalf of a mortgagee. Farkas specifically contends that Ocwen, who initiated the challenged foreclosures, is not a valid mortgage servicer because the current mortgagee,

Deutsche Bank, did not inform him of the name of the servicer, Ocwen. His argument is unavailing.

Under Texas law, "[q]uasi- estoppel precludes a party from asserting, to another's disadvantage, a right inconsistent with a position previously taken." *Lopez v. Munoz, Hockema & Reed, L.L.P.*, 22 S.W.3d 857, 864 (Tex. 2000) (citing *Atkinson Gas Co. v. Albrecht*, 878 S.W.2d 236, 240 (Tex. App. - Corpus Christi 1994, writ denied)). It "applies when it would be unconscionable to allow a person to maintain a position inconsistent with one to which he acquiesced, or from which he accepted a benefit." Id. (collecting cases).

Farkas made monthly payments on both the Claretfield and Oakview mortgages to companies identified to him as the mortgage servicers from the origination of these mortgages in 2006 to his default on both loans in December 2010. The mortgage servicing rights were transferred in 2006, 2009, and 2013. Each time, the preceding servicer -not the mortgagee -notified him of the identity of the succeeding servicer. From 2006 to 2010, Farkas did not raise the issue that only the current mortgagee could provide notice of the identity of the mortgage servicer. Based on his prior conduct, he has acquiesced to the validity of the notice of transfer from one servicer to the next. In Farkas I, this court applied the quasi -estoppel doctrine to Farkas's challenge to GMAC's status as the servicer of the loans based on these facts. *See* 737 F.3d at 344. As the differences between Farkas I and the situation at hand are immaterial, the doctrine also applies to Farkas's challenge to Ocwen's status as servicer of his loans.

Second, Farkas argues that the four -year limitations period to foreclose has expired. This contention is also unavailing. "Under Texas law, a secured lender `must bring suit for ... the foreclosure of a real property lien not later than four years after the day the cause of action accrues.'" *Boren v. U.S. Nat'l Bank Assn*, 807 F.3d 99, 104 (5th Cir. 2015) (citing Tex. Civ. Prac. & Rem. Code § 16.035(a)). The four -year limitations period can be triggered when the holder of a note or deed of trust exercises its option to accelerate. See id. (citing *Holy Cross Church of God in Christ v. Wolf*, 44 S.W.3d 562, 566 (Tex. 2001)). However, "a lender may unilaterally abandon acceleration of a note, thereby restoring the note to its original condition ... by sending notice to the borrower that the lender is no longer seeking to collect the full balance of the loan and will permit the borrower to cure its default by providing sufficient payment to bring the note current under its original terms." *Id.* at 105.

In May 2011, GMAC sent notices of acceleration for both loans, which initially triggered § 16.035(a)'s four -year statute of limitations. But these initial accelerations were abandoned when Ocwen sent Farkas new notices of default in early 2015. Ocwen no longer demanded the full balance, and Farkas had the chance to cure his arrearages. Thus, foreclosures of his two properties were not barred.

B.

On appeal, Farkas also challenges the denial of his motion to recuse. He argues that the district

court judge was prejudiced against him because the judge (1) in the case management order, gave Farkas only six days to file a response to the Rule 12(c) motion and (2) after denying Farkas's motion to recuse, gave him a week to file an amended response to the Rule 12(c) motion. "We review the denial of a recusal motion for abuse of discretion." *Garcia v. City of Laredo*, 702 F.3d 788, 793 -94 (5th Cir. 2012) (citing *Trevino v. Johnson*, 168 F.3d 173, 178 (5th Cir. 1999)). Under 28 U.S.C. § 144, recusal is required if a party "files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party." Under 28 U.S.C. § 455(a) and (b)(1), recusal is required when the judge "has a personal bias or prejudice concerning a party, or personal proceeding, "knowledge of or when the disputed evidentiary judge's "impartiality facts concerning the might reasonably be questioned." "Under either statute, the alleged bias must be personal, as distinguished from judicial, in nature." *United States v. Scroggins*, 485 F.3d 824, 830 (5th Cir. 2007) (emphasis added) (quoting *Phillips v. Joint Legis. Comm. on Performance & Expenditure Review*, 637 F.2d 1014, 1020 (5th Cir. 1981)).

Farkas has not shown any personal bias or prejudice on the part of the district court judge, but "merely expresses disagreement with specific rulings by the court on motions and routine case management matters." *Kastner v. Lawrence*, 390 F. App'x 311, 317 (5th Cir. 2010) (per curiam). Farkas has thus failed to demonstrate that the district court abused its discretion by denying his recusal motion.

III.

For the foregoing reasons, we AFFIRM the district court's ruling that Farkas will take nothing from Ocwen, Deutsche Bank, and Power Default.

APPENDIX G

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

D.C. Docket No. 17-20488

JANOS FARKAS, Plaintiff-Appellant,
v.

OCWEN LOAN SERVICING, L.L.C.; DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE FOR RESIDENTIAL ACCREDIT LOANS, INCORPORATED, MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2006-QS9; POWER DEFAULT SERVICES, INCORPORATED
Defendants-Appellees.

[Filed: February 26, 2018]

Appeal from the United States District Court for the Southern District of Texas
No. 4:16-CV-3720

Before KING, ELROD, and HIGGINSON, Circuit Judges.

J U D G M E NT

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is affirmed.

IT IS FURTHER ORDERED that plaintiff-appellant pay to defendants-appellees the costs on appeal to be taxed by the Clerk of this Court.

APPENDIX H

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

D.C. Docket No. 17-20488

JANOS FARKAS, Plaintiff-Appellant,

v.

OCWEN LOAN SERVICING, L.L.C.; DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE FOR RESIDENTIAL ACCREDIT LOANS, INCORPORATED, MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2006-QS9; POWER DEFAULT SERVICES, INCORPORATED
Defendants-Appellees.

[Filed: April 3, 2018]

Appeal from the United States District Court for the Southern District of Texas
No. 4:16-CV-3720

Before KING, ELROD, and HIGGINSON, Circuit Judges.

ON PETITION FOR REHEARING

PER CURIAM:

IT IS ORDERED that the petition for rehearing is denied.

ENTERED FOR THE COURT:

United States Circuit Judge