

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-1181

SCOTT E. WEBSTER,

Plaintiff-Appellant,

and

JEAN ALLEN WEBSTER,

Plaintiff-Appellant,

v.

WELLS FARGO BANK, N.A.

(Successor by Merger to Wells Fargo Home Mortgage, Inc.
and doing business as Wells Fargo Home Mortgage),
RICHARD M. KOVACEVICH, SEAN NIX, MARCIA FRANCIS,
AFFORDABLE FINANCIAL SERVICES, JOHN BALDWIN,
RIVER CITY ABSTRACT, JOHN DOE, and JANE DOE,

Defendants-Appellees,

and

DOMINICK PENZETTA,

Defendant-Appellee,

and

STEVEN J. BAUM, P.C. and
DARLEEN V. KARASZEWSKI,

Defendants-Appellees.

Appeal from the United States District Court for the Southern District of New York in
case no. 08-CV-10145, Judge Loretta A. Preska.

ON MOTION

ORDER

The appellants move for leave to proceed in forma pauperis and for an extension of time. The court considers whether this appeal should be transferred to the United States Court of Appeals for the Second Circuit.

The plaintiffs sued the defendants for various asserted claims related to a mortgage. The plaintiffs filed a notice of appeal, seeking review by this court. This court is a court of limited jurisdiction. 28 U.S.C. § 1295. With the exception of patent infringement cases and certain cases against the United States government, this court does not generally have jurisdiction over an appeal from a district court. The claims asserted by the plaintiffs do not appear to be the type that would provide this court jurisdiction over an appeal in a district court case, and thus it appears that the appeal should be transferred to the regional circuit, here the Second Circuit. 28 U.S.C. § 1631 (if a court lacks jurisdiction, it may transfer the action to another court).

We note that the district court granted the plaintiffs leave to proceed in forma pauperis. Thus, in the circumstances it is not necessary to request leave to proceed in forma pauperis in this court. The fee requirement is waived.

Accordingly,

IT IS ORDERED THAT:

(1) The motions for leave to proceed in forma pauperis are moot. Because the plaintiffs proceeded before the district court in forma pauperis, the requirement that they pay a fee for the docketing of the appeal is waived.

(2) The briefing schedule is stayed. The motion for an extension of time is moot.

(3) Absent objection received within 21 days of the date of filing of this order, this appeal will be transferred to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631.

MAY 03 2010

Date

FOR THE COURT

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Scott E. Webster
Jean Allen Webster
Steven Lloyd Young, Esq.
Jonathan R. Harwood, Esq.

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

MAY 03 2010

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JAN HORBALY
CLERK