

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WELLS FEDERAL BANK, FSB,

Plaintiff,

OPINION AND ORDER

11-cv-695-bbc

v.

WILLIAM A. CLIFFORD, LINDA A. CLIFFORD,
AMOROUS ACRES, LLC, WISCONSIN PUBLIC
SERVICE CORPORATION and NORTHLAND
ORTHOPEDIC ASSOCIATES, SC,

Defendants.

Defendant Linda Harding¹ has filed a notice of removal of a state foreclosure action filed in the Circuit Court for Oneida County, Wisconsin. In the underlying complaint, plaintiff Wells Federal Bank, FSB, alleges that defendants William Clifford, Linda Harding and their company, defendant Amorous Acres, LLC, failed to make payments on their mortgage on a piece of real estate in Harshaw, Wisconsin. Plaintiff has filed a motion to dismiss the case as untimely removed. I find that removal was untimely and that the case must be remanded.

Under 28 U.S.C. § 1446(c)(4), a district court is to examine a notice of removal to

¹ Defendant Harding is listed in the caption as Linda Clifford, but I will identify her by the name she uses in her notice of removal.

determine whether it appears from its face and any attached exhibits that an order for summary remand must be issued. In order to remove an action from state to federal court, a defendant must file a notice of removal within 30 days after service of the complaint. 28 U.S.C. § 1446(b). “The purpose of the 30-day limitation is twofold.” Wilson v. Intercollegiate Collegiate Conference Athletic Ass’n, 668 F.2d 962, 965 (7th Cir. 1982). First, “to deprive the defendant of the undeserved tactical advantage that he would have if he could wait and see how he was faring in state court before deciding whether to remove the case to another court system.” Id. Second, “to prevent the delay and waste of resources involved in starting a case over in a second court after significant proceedings, extending over months or even years, may have taken place in the first court.” Id.

The present action provides a case in point. The materials provided by the parties and the Wisconsin Circuit Court Access electronic database, <http://wcca.wicourts.gov>, make it clear that defendant Harding filed her notice of removal far too late. She was served with the complaint on January 28, 2010. The state court granted judgment of foreclosure on March 16, 2010, and plaintiff has purchased the property at sheriff’s sale. Defendant Harding cannot relitigate the foreclosure in this court. I note that plaintiff alleges that defendant Harding has continued to illegally “squat” on the premises. That matter is beyond the scope of this litigation.

ORDER

IT IS ORDERED that plaintiff Wells Federal Bank’s motion to dismiss this

incorrectly removed case, dkt. #1, is GRANTED. This case is REMANDED to the Circuit Court for Oneida County, Wisconsin.

Entered this 13th day of January, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge