

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

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PAUL FRANK BOHMAN and  
MICHELLE LYNN BOHMAN,

Plaintiffs,

v.

SHERIFF GREGORY HERRICK,  
Clark County; CENLAR FSB;  
BAYVIEW LOAN SERVICING;  
GRAY AND ASSOCIATES, LLP;  
and JUDGE JOHN COUNSEL,

Defendants.  
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OPINION AND ORDER

12-cv-947-bbc

Acting on their own behalf, plaintiffs Paul Frank Bowman and Michelle Lynn Bohman have brought a motion for immediate injunctive relief, seeking to restrain defendant Sheriff Gregory Herrick from executing a writ of assistance and eviction notice against their real property on December 28, 2012. (They assert no claims against the other named defendants, Cenlar FSB, Bayview Loan Servicing and Judge John Counsel, but they have attached two motions for authentication and production of documents and other evidence that are directed to defendants Cenlar FSB and Bayview Loan Servicing.) Plaintiffs have paid the full filing fee, so I may consider their filing. Unfortunately for plaintiffs, their motions must be denied because they have alleged no grounds on which this court may exercise jurisdiction over their action.

Unlike state courts, federal courts are courts of limited jurisdiction; they may hear and decide only those matters that Congress has authorized them to hear. As a general rule, federal courts may hear cases raising “federal questions,” that is, cases that involve an issue of federal statutory, constitutional or treaty law, 28 U.S.C. § 1331, and cases between citizens of different states when the matter in controversy exceeds the sum of \$75,000. 28 U.S.C. § 1332. There are a few other matters that fall within the jurisdiction of federal courts but none that would authorize the relief that plaintiffs are seeking.

Plaintiffs have no ground for jurisdiction under § 1332, because they have not alleged that their citizenship is different from that of each defendant. It seems unlikely that they could make such an allegation. Their farm is located in Wisconsin; presumably they are citizens of Wisconsin. As elected officials of the state of Wisconsin, Judge Counsel and Sheriff Herrick almost certainly are citizens of Wisconsin also, thereby destroying any possibility of diversity jurisdiction.

Plaintiffs have not alleged anything in their motions to suggest that they are asserting any claim against Sheriff Herrick or the other defendants that arises under federal law so that jurisdiction might be exercised under § 1331. However, documents attached to their motion suggest that they might be trying to pursue a claim against defendants Cenlar FSB and Bayview Loan Servicing on the ground that these defendants violated the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.* or some other federal law. If so, plaintiffs would face still another obstacle to maintaining a suit in federal court. The Rooker-Feldman doctrine prohibits federal courts other than the Supreme Court from exercising subject matter

jurisdiction when the federal plaintiffs allege that their injury was caused by a state court judgment. Exxon Mobil Corp.v. Saudi Basic Industries Corp., 544 U.S. 280, 284 (2005); see also Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). In addition, the Rooker-Feldman doctrine "precludes federal jurisdiction over claims 'inextricably intertwined' with a state court determination . . . even when those claims were never argued in the state court." Remer v. Burlington Area School District, 205 F.3d 990, 996 (7th Cir. 2000). Even if plaintiffs have federal law claims under the Truth in Lending Act, they cannot raise them in this court when they either failed to raise the claims in state court or raised them unsuccessfully. Their recourse is in the state appellate system, not in the federal district court, which has no authority to overturn a state court judgment such as the one that presumably underlies the writs of execution and assistance issued by the state court.

Accordingly, plaintiffs' motions for injunctive relief, authentication and production of documents will be denied and this case will be dismissed for lack of jurisdiction.

#### ORDER

IT IS ORDERED that the motions for injunctive relief, for authentication of documents and evidences and for production of documents filed by plaintiffs Paul Frank Bohman and Michelle Lynn Bohman are DENIED for lack of federal jurisdiction. FURTHER, IT IS ORDERED that this case is dismissed. The clerk of court is directed to enter judgment for defendants Sheriff Gregory Herrick, Cenlar FSB, Bayview Loan Servicing

and Judge John Counsel.

Entered this 27th day of December, 2012.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge