

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

August 7, 2014 at 9:30 a.m.

1. [08-24574-E-13](#) EARL/CATHERINE BROWN
[14-2029](#)
BROWN ET AL V. CHASE HOME
FINANCE, LLC

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-22-14 [[1](#)]

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: unknown

Adv. Filed: 1/22/14
Answer: none

Nature of Action:
Validity, priority or extent of lien or other interest in property
Declaratory judgment

Notes:

Continued from 7/9/14

Plaintiffs' Status Conference Statement filed 7/31/14 [Dckt 26]

AUGUST 7, 2014 STATUS CONFERENCE

Plaintiff-Debtors filed an updated Status Report on July 31, 2014. Plaintiff-Debtors' counsel reports that a Stipulation has been prepared and transmitted to JPMorgan Chase Bank, N.A.'s counsel. It is represented that the parties are agreeing to settle the case for \$2,500.00. Therefore, Plaintiff-Debtors request that the Status Conference be continued another 30 days.

This Adversary Proceeding was filed on January 22, 2014. It seeks to enforce the Plaintiff-Debtors' rights to have a deed of trust reconveyed now that the Chapter 13 plan has been completed and the creditor's secured claim has been fixed at \$0.00. With no obligation remaining to be secured, the deed of trust is void and Plaintiff-Debtors assert the rights under contract, California, and federal law to have the void lien removed.

What is missing from the explanation is why now, seven months after the Complaint was filed and four months after JPMorgan Chase Bank, N.A. has appeared in this Adversary Proceeding, the parties are requesting a fourth continuance of the Status Conference in this case. From the file, it appears that the parties to this Adversary Proceeding may well need a Scheduling Order and have the matter set for prompt trial if this matter is actually going to be resolved short of trial.

SUMMARY OF COMPLAINT

August 7, 2014 at 9:30 a.m.

In the Complaint Plaintiff-Debtor asserts that having completed her Chapter 13 Plan, Chase Home Finance, LLC must reconvey a deed of trust which secured its claim in her bankruptcy case. Bankr. E.D. Cal. No. 08-24574. A search of the California Secretary of States database reveals that Chase Home Finance, LLCs status is listed cancelled. See California Secretary of State, Business Search, <http://kepler.sos.ca.gov/>. This listing also states that the jurisdiction of Chase Home Finance, LLC is Delaware. The Delaware Secretary of States database requests fees in order to view the status of Chase Home Finance, LLC. See Delaware Secretary of State, Entity Search, Case Number: 2014-02029 Filed: 7/9/2014 Doc # 25.

<https://delecorp.delaware.gov/tin/GINameSearch.jsp>.

In *Rhodes v. JPMorgan Chase Bank, N.A.*, 2012 U.S. Dist. LEXIS 158988 n1 (S.D. Fla. Nov. 6, 2012) the court noted that Defendant JPMorgan Chase Bank, N.A. stated that it is successor by merger to Chase Home Finance, LLC, doing business as Chase Home Mortgage. Similarly, in *JPMorgan Chase Bank, N.A. v. Romine*, 2013-Ohio-4212 (Ohio Ct. App., Sept. 26, 2013) the court noted that Chase Home Finance, LLC thereafter merged with [JPMorgan Chase Bank, N.A.]. In *JPMorgan Chase Bank, NA v. Carroll*, 2013-Ohio-5273 (Ohio Ct. App., Dec. 2, 2013) Plaintiff JPMorgan Chase Bank, N.A. filed the affidavit of Michael Brown, JPMorgan Chase Bank, N.A.s Vice President, in which he stated,

"In my capacity as Vice President, I have access to [JPMorgan's] business records, maintained in the ordinary course of regularly conducted business activity, including the business records for and relating to [Glenn Carroll's] loan. These records include the historic records of Chase Home Finance LLC, which merged with [JPMorgan] effective May 1, 2011."

More recently in *Reynolds v. JPMorgan Chase Bank, N.A.*, 2014 U.S. Dist. LEXIS 4503 (M.D. Ga. Jan. 14, 2014), the court noted that [a]mong the defendants in that case was Chase Home Finance, LLC, which was succeeded by merger with JPMorgan. See, e.g., Doc. 4-4 at 2; *Harris v. Chase Home Finance, LLC*, 524 F. App'x 590, 591 (11th Cir. 2013).

MOTION TO EXTEND TIME FOR JPMORGAN CHASE BANK, NA TO RESPOND

On April 11, 2014, JPMorgan Chase Bank, N.A., identifying itself as a Defendant, filed a Motion for an enlargement of time for it to file a responsive pleading to the Complaint. In the Motion JPMorgan Chase Bank, N.A. asserts that it is the successor by merger to Chase Home Finance, LLC.

NO SUBSTITUTION OF PARTY

It appears that Plaintiff-Debtor, having named the incorrect party as a defendant, and JPMorgan Chase Bank, N.A., not a party named to the Adversary Proceeding, are content with proceeding with litigation on an inaccurate Complaint. No Party has requested that JPMorgan Chase Bank, N.A. be joined as the real party in interest pursuant to Federal Rule of Civil Procedure 19(a) and Federal Rule of Bankruptcy Procedure 7019, the dismissal of Chase Home Finance, LLC, or the amendment of the Complaint to state a claim against JPMorgan Chase Bank, N.A.

As drafted, JPMorgan Chase Bank, N.A. is left litigating in an Adversary Proceeding in which no claims are stated against it. There is no reason for the Parties to conduct such tentative litigation, and then after the fact decide that they want, or oppose, a *post hoc* amendment of the Complaint or substitution of a real party in interest.

The potential for such disagreements appears to be a real possibility in this case. Already JPMorgan Chase Bank, N.A.'s counsel is accusing Plaintiffs counsel of reneging on a agreement. Motion to Extend Time, Pg. 5:9-10 Dckt. 20.