

Maine Law Court Upholds Sanctions Against Pro Se Litigant in Foreclosure Cases

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Pro se litigant Von Scott filed a complaint against Federal National Mortgage Association (FNMA) in the Superior Court, seeking to void a foreclosure judgment entered in FNMA's favor and to set aside the subsequent sale of the foreclosed property. His complaint was characterized as a quiet title action seeking declaratory relief. FNMA filed a Motion to Dismiss, as well as a Motion for Sanctions against Von Scott. *Von Scott v. Federal National Mortgage Association*, Me. Super. Ct., 2023 WL 6935586; Order on Defendant's Motion to Dismiss and Motion for Sanctions at *2-3.

Although he was not the foreclosure defendant, Von Scott alleged that he had acquired an interest in the property under an oral contract with the foreclosure defendant prior to the foreclosure sale. An oral contract regarding an interest in real estate, however, is unenforceable under the statute of frauds. See 33 M.R.S. § 51 (2023).

Scott also produced a subsequent written contract with the foreclosure defendant, but the written contract was dated two weeks after the foreclosure sale. By that time, the foreclosure sale had extinguished any interest the foreclosure defendant or Von Scott may have claimed in the property. See 14 M.R.S. § 6321 (2023). Accordingly, Scott did not have an interest in the property sufficient for standing to sue for quiet title or for declaratory relief. *Id.* at *2-3.

After disposing of Von Scott's claims for quiet title and for declaratory judgment relief due to his lack of standing, the Superior Court addressed Von Scott's arguments that the foreclosure was void in the context of "wrongful foreclosure." *Id.*

Without ruling on whether an independent cause of action for wrongful foreclosure exists in Maine, the Superior Court found that, even if Maine did recognize wrongful foreclosure as a cause of action, and even assuming Von Scott had standing to bring such a claim, he failed to allege facts sufficient to show that the foreclosure was in any way "wrongful." *Id.*

He alleged only that FNMA lacked standing because copies of the note and the mortgage were

admitted into evidence at trial, as opposed to the original documents the foreclosure defendant signed. The Superior Court noted, however, that the record in the foreclosure case shows that FNMA produced the original note and the original recorded mortgage for inspection at trial, allowing the trial court to admit copies of those documents into evidence, which is the accepted practice in Maine. *Id.*, citing *Deutsche Bank Tr. Co. Ams. v. Clifford*, 2021 ME 11, ¶¶14-16, 246 A.3d 597. Accordingly, the Superior Court granted FNMA's Motion to Dismiss ^[1]

The Superior Court then considered FNMA's Motion for Sanctions against Von Scott, under Rule 11 of the Maine Rules of Civil Procedure, which states, in relevant part:

The signature of an attorney or party constitutes a representation by the signer that the signer has read the pleading or motion; that to the best of the signer's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. ... If a pleading or motion is signed with intent to defeat the purpose of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, upon a represented party, or upon both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading or motion, including a reasonable attorney's fee.

The Superior Court examined Von Scott's original filing as well as his opposition to FNMA's Motion to Dismiss in awarding sanctions to FNMA. The Superior Court noted that Von Scott's opposition contained case citations and quotations that were fabricated.

The Superior Court acknowledged that Von Scott may have utilized artificial intelligence in generating the citations used in his opposition; however, the court stated that "blind reliance on artificial intelligence does not excuse misrepresentation of the law. ... Although this is especially true for attorneys, who certainly ought to know better than to submit a filing without verifying citations, pro se litigants must be held to the same standard." *Id.* citing *Dep't of Env't Prot. V. Woodman*, 1997 ME 164, ¶3 n.3, 697 A.2d 1295.

The Superior Court therefore ordered Von Scott to pay FNMA's "reasonable attorney fees, costs, and expenses incurred in connection with the Motion to Dismiss and the Motion for Sanctions." *Id.* at *4.

On appeal, the Law Court concluded that "the trial court did not abuse its discretion by imposing sanctions against Scott for knowingly filing a pleading without grounds and citing to non-existent legal authority in support of his position." Mem. 24-45 at pg. 2.

The decision makes it clear that the Law Court will not disturb an award of sanctions when a party files a complaint or other pleading without a meritorious cause of action or legal basis, nor will it excuse a pro se litigant for relying on artificial intelligence in submitting court filings that lack legal authority.

^[1] Similarly, the Law Court issued a Memorandum of Decision upholding dismissal of a complaint Von Scott filed against another foreclosing mortgagee in *Von Scott v. U.S. Bank National Association*, also holding that Scott failed "to state a cognizable wrongful foreclosure claim against U.S. Bank National Association." See Mem. 24-46.

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