

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
PEDRO GUERRERO,) CASE NO. 10-20175 jpk
) Chapter 13
) Debtor.)

PEDRO GUERRERO,)
)
) Plaintiff,)
)
) V.) ADVERSARY NO. 11-2157
)
)
DEUTSCHE BANK NATIONAL)
TRUST COMPANY, as TRUSTEE,)
)
) Defendant.)

ORDER FOR PRELIMINARY PRETRIAL CONFERENCE

This adversary proceeding was initiated by a complaint filed on October 11, 2011 by the debtor against the defendant Deutsche Bank National Trust Company, as Trustee/Deutsche Bank National Trust Company. The interests of the defendant appear to be serviced by Ocwen Loan Servicing, LLC, which filed claims Nos. 6-1 and 6-2 on behalf of Deutsche Bank National Trust Company, as Trustee. Attorney Jay S. Mercer entered his appearance on behalf of the defendant in this case on November 1, 2011, and various hearings were held in the case at which the parties represented to the court that they were reviewing documentation in order to seek to arrive at a resolution of the complaint, which seeks to determine the post-petition "current" mortgage payment to be made to the creditor. On January 29, 2013 as record entry No. 19, attorney Adam Cobb entered his appearance for defendant Deutsche Bank National Trust Company as Trustee. In the record No. 20 Verified Motion to Continue Hearing filed by attorney Cobb on January 29, 2013 with respect to a hearing scheduled by record entry No. 17 for January 30, 2013 – attorney Cobb stated that the counsel presently representing the foregoing defendant intended to withdraw as counsel for that defendant, and requested that the

hearing be continued for 90 days to provide the defendant with an opportunity to obtain new counsel. As of February 5, 2013, no motion for withdrawal of appearance has been granted.

This case appears to represent an all too frequently occurring scenario in Chapter 13 cases before this court. That scenario involves filing of a proof of claim by a creditor secured by a mortgage interest in the debtor's residence; the debtor's filing of an adversary proceeding to determine the post-petition mortgage payment owed to that creditor because of confusion with respect to that payment created by notices sent by the creditor and/or disagreement with the creditor's statements; the handling of the creditor's account by a servicer which many times does not have access to the full account records of the creditor; and the creditor's disregard of its obligations in the adversary proceeding, especially when it is represented by counsel, to seek to expeditiously resolve the adversary proceeding or expeditiously set it for trial if the parties disagree.

IT IS ORDERED that a preliminary pretrial conference in the above-designated adversary proceeding will be held on **April 10, 2013, at 11:00 A.M.**, in open court, in Hammond, Indiana.

IT IS FURTHER ORDERED that either an attorney who has entered an appearance on behalf of the defendant Deutsche Bank National Trust Company, as Trustee prior to that hearing – or in the absence of such an attorney, a representative of the defendant having personal knowledge of the debtor's mortgage account – shall personally appear at that hearing.

Dated at Hammond, Indiana on February 15, 2013.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Attorneys of Record