

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

Towd Point Mortgage Trust 2017-3, U.S. Bank National Association,
as Indenture Trustee : Case Number: CV-2024-08-3426

Plaintiff, : Judge Kelly L. McLaughlin

vs. :

Steven Nicholas Waszil, et al : **ORDER**
:
Defendants.

This matter comes before the court on Plaintiff Towd Point Mortgage Trust 2017-3, U.S. Bank National Association, as Indenture Trustee's ("Towd Point Mortgage Trust") Motion to Reconsider.

This is a residential foreclosure action. Towd Point Mortgage Trust filed the action on August 8, 2024. Service was complete on all defendants on February 11, 2025, and none of the defendants filed an answer or otherwise responded to the Complaint. On May 5, 2025, a magistrate issued an order indicating the court would dismiss the case without prejudice if Plaintiff did not file a motion for default judgment within 14 days. Plaintiff did not file a motion for default judgment or otherwise respond to the May 5, 2025 order, and on May 21, 2025, the court dismissed the case without prejudice, for lack of prosecution.

Plaintiff filed its Motion to Reconsider on June 18, 2025. The court notes that four attorneys are listed on the Complaint; however, a new attorney filed the Motion to Reconsider, and filed a notice of appearance contemporaneously with the Motion to Reconsider. The Motion to Reconsider states, "Plaintiff's counsel

shows no receipt from the clerk regarding [the May 5, 2025 order] via either email or regular mail.” Plaintiff also attached an affidavit from Marilyn Ramirez, one of the original attorneys listed on the Complaint. She avers, “[o]ur office shows no receipt of the judgment entry requiring Plaintiff to file a motion for default judgment within 14 days of May 5, 2025 or the court would dismiss the case for lack of prosecution.” Neither the Motion to Reconsider nor the affidavit offer any explanation as to why Plaintiff did not file a motion for default judgment during the period after March 12, 2025, when the answer time had passed.

Whenever a document is filed in a case in this court, the Summit County Clerk of Courts sends out a notice via email to the attorneys and parties listed on the case that have provided an email address to the Clerk of Courts. A copy of the email notice for the May 5, 2025 order is attached as Exhibit A. It shows that the Clerk of Courts sent the email notice to the four attorneys listed on the Complaint as follows:

RAMIREZ, YANFANG MARILYN	OH_E-Notifications@rslegal.com
DAVIS, CARRIE LYNN	OH_E-Notifications@rslegal.com
BRINKMAN, MICHAEL R.	OH_E-Notifications@rslegal.com
COLE, AARON M.	acole-ohen@rslegal.com

Notably, neither the Motion to Reconsider nor the affidavit reference the above email addresses and/or indicate that any effort was made to determine if the email notice was received at either email. Further, neither the Motion to Reconsider nor the affidavit indicate that anyone from Plaintiff’s counsel’s firm contacted the Summit County Clerk of Courts.

The court further notes that Civ.R. 11 states, in part,

Every pleading, motion, or other document of a party represented by an attorney shall be signed, by electronic signature or by hand, by at least one attorney of record in the attorney's individual name, whose address, attorney registration number, telephone number, facsimile number, if any, and business e-mail address, if any, shall be stated.

The Complaint does not contain an email address as required by Civ.R. 11.

Based on the information provided to the court and the entire record, including the docket, the court finds that Plaintiff's counsel was served with notice of the May 5, 2025 order. Further, the court finds that Plaintiff's counsel was dilatory in prosecuting this case and that Plaintiff's counsel did not comply with Civ.R. 11. "Finally, under well-established authority, parties are responsible for checking the docket and keeping themselves informed of the progress of their cases." *Dayton Children's Hospital v. Garrett Day, LLC*, 149 N.E.3d 1004, 2019-Ohio-4875, ¶128 (2nd Dist. Montgomery).

The court DENIES the Motion to Reconsider.

IT IS ORDERED



JUDGE KELLY L. McLAUGHLIN

EXHIBIT A

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TAVIA GALONSKI
SUMMIT COUNTY CLERK OF COURTS

Notice of Over the Counter Filing

The Summit County Court of Common Pleas or Ninth District Court of Appeals has filed the following order(s) with the Summit County Clerk of Courts office. The details of the filing are listed below:

Case Details

Caption:	TOWD POINT MORTGAGE TRUST 2017-3, U.S. B vs STEVEN NICHOLAS WASZIL
Case Number:	CV-2024-08-3426
Assigned Judge:	KELLY MCLAUGHLIN
Filed By:	TOWD POINT MORTGAGE TRUST 2017-3, U.S. B
File Date:	5/5/2025 3:16:56 PM

Case Parties

A copy of this E-mail was sent to the e-mail addresses listed below. If an e-mail address is not listed, no e-mail was sent to that party.

Party Type	Party Name	E-Mail Address
Plaintiff Attorney	RAMIREZ, YANFANG MARILYN	OH_E-Notifications@rslegal.com
Plaintiff	TOWD POINT MORTGAGE TRUST 2017-3, U.S. B	
Defendant	WASZIL, STEVEN NICHOLAS	
Defendant	WASZIL, UNKNOWN SPOUSE OF STEVEN NICHOLAS	
Defendant	MV REALTY OF OHIO, LLC	
Judge	MCLAUGHLIN, KELLY	jroberts@cpcourt.summitoh.net
Judge	MCLAUGHLIN, KELLY	pzindle@cpcourt.summitoh.net
Judge	MCLAUGHLIN, KELLY	rebrown@cpcourt.summitoh.net
Judge	MCLAUGHLIN, KELLY	wvargas2@prosecutor.summitoh.net
Plaintiff Attorney	DAVIS, CARRIE LYNN	OH_E-Notifications@rslegal.com
Plaintiff Attorney	BRINKMAN, MICHAEL R.	OH_E-Notifications@rslegal.com
Plaintiff Attorney	COLE, AARON M.	acole-ohen@rslegal.com

Documents Filed

Document ID	Document Name	Document Title
15534343	MAGISTRATE'S ORDER	View Image

If you have any questions, please contact the Summit County Clerk of Courts at 330-643-2211. Please have your case number handy.

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