IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

MICHAEL C. GREENSPON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. N17M-03-300
	)	
PROMMIS HOLDINGS, LLC, *et al.*,	)	
	)	
Defendants.	)	

ORDER

This Order memorializes the Court's ruling at the hearing on October 20, 2017, that the Plaintiff/Petitioner Michael C. Greenspon's May 8, 2017 Motion to Compel Production and for Sanctions is denied; and Respondent Ocwen Loan Servicing, LLC's ("Ocwen") Motion to Quash the Third Party Subpoena is granted. The basis for this ruling was placed on the record at the October 20, 2017 hearing and is incorporated herein by reference as if set forth in its entirety.

In summary, Plaintiff served a subpoena on third party Ocwen seeking the production of records and documents in an out-of-state action, a Hawaii state court action. The action in which the records and documents were sought, Michael C. Greenspon v. Prommis Holdings, LLC, *et al.*, Hawaii Second Circuit, Civil Action No. 14-1-0018(2), involves claims of improper and wrongful foreclosure proceedings related to Plaintiff's personal residence.

In the subject Hawaii action, Plaintiff obtained a default judgment against the defendants as to liability. It appears that the only issue which remains outstanding in the underlying action is the amount of damages to be awarded Plaintiff. In the Hawaii action, a May 17, 2017 hearing was held on a motion to compel filed by Plaintiff against Fidelity National Title and Escrow of Hawaii seeking to compel the production of records and documents. In that hearing, the Hawaii

court stated that the only issue remaining in the case was the amount of damages to be awarded Plaintiff and that it was Plaintiff's burden "to prove your damages and you don't get to go out and get discovery from third parties."[1]

This transcript was provided to the Court by another third party, ServiceLink Process Solutions, LLC ("ServiceLink"), who had also been served by Plaintiff with a third party subpoena seeking the production of records and documents in the same underlying Hawaii action. Plaintiff had also filed a Motion to Compel against ServiceLink and ServiceLink had filed a Motion for a Protective Order. The May 17, 2017 transcript from the underlying Hawaii action was attached as Exhibit B to ServiceLink's response to that motion to compel and motion for protective order.[2] The ServiceLink matter was resolved by the parties prior to the October 20, 2017 hearing held by this Court on the Ocwen subpoena.

This Court notes in passing that the May 17, 2017 transcript which appears to prohibit Plaintiff from obtaining third party discovery in the underlying Hawaii action was never disclosed to this Court by the Plaintiff. Plaintiff filed the subject motion to compel on May 8, 2017, and it remained pending after the May 17, 2017 hearing in the underlying Hawaii action in which the Hawaii court appears to have stated that third party discovery was not permitted.

Through the issuance of the out-of-state subpoena at issue, Plaintiff seeks to obtain discovery from third party Ocwen to prove his damages. However, if Plaintiff is not permitted to obtain discovery from third parties in the underlying Hawaii state action to prove his damages, he is not permitted to serve an out-of-state subpoena to any third party to obtain documents to prove

---

[1] *Greenspon v. Prommis Holdings, LLC, et al.*, Hawaii Second Circuit, Civil Action No. 14-1-0018(2), May 17, 2017 transcript at pg. 14.

[2] *Greenspon v. Prommis Holdings, LLC, et al.*, Superior Court of the State of Delaware, C.A. No. 17M-03-301, out of state production subpoena, Superior Court Docket No. 6, Exhibit B.

his damages. Plaintiff is not permitted to circumvent the discovery limitations imposed by the Hawaii court by seeking discovery from third parties in Delaware by invoking the Delaware Uniform Interstate Deposition and Discovery Act, 10 *Del. C.*§ 4311(c). Plaintiff is not permitted to obtain discovery from an out-of-state third party beyond the scope permitted by the underlying action for which the discovery is being sought.

At the October 20, 2017 hearing, Plaintiff represented to this Court that at an August 2017 court proceeding, the underlying Hawaii state court allowed Plaintiff to proceed with obtaining discovery from third parties. A transcript of that proceeding was not provided to this Court.

At this time, this Court does not know whether in the underlying Hawaii action Plaintiff is permitted to obtain discovery from third parties, and if so, the nature and extent of the discovery which is permissible from those third parties.

At the October 20, 2017 hearing, Plaintiff was directed to file the appropriate motion in the underlying Hawaii action to establish whether any third party discovery is permitted from third party Ocwen, and if so, the nature and extent of that discovery permitted. Plaintiff must notice Ocwen of that pending motion and Ocwen (who has already retained local Hawaii counsel) is required to raise its objections in that court.

Once the permissible scope of discovery from Ocwen has been established by the underlying Hawaii court, to the extent any discovery is permitted, Ocwen's counsel, David A. Dorey, Esquire, has agreed to accept service of the subpoena from Plaintiff on Ocwen's behalf seeking the permissible discovery.

Accordingly, for the reasons set forth on the record on October 20, 2017 and for the reasons stated herein, Plaintiff's motion to compel production and for sanctions is denied and Ocwen's motion to quash is granted.

IT IS SO ORDERED.

Dated: October 25, 2017

Commissioner Lynne M. Parker

oc: Original to Prothonotary
Michael C. Greenspon, Plaintiff *pro se*
David A. Dorey, Esquire