

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

DLJ MORTGAGE CAPITAL, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:16-cv-0085
	)	
ANA SHERIDAN, ROY SHERIDAN,	)	
DEPARTMENT OF TREASURY-INTERNAL	)	
REVENUE SERVICE,	)	
	)	
Defendants.	)	
	)	

ORDER

BEFORE THE COURT is the motion of non-party FirstBank Puerto Rico (“FirstBank PR”) seeking attorneys’ fees from Roy Sheridan. (ECF No. 160.) On January 8, 2021, the Magistrate Judge issued a report and recommendation recommending that the Court deny the motion. (ECF No. 194.) For the reasons outlined below, the Court will adopt the report and recommendation of the Magistrate Judge and deny FirstBank PR’s motion.

I. FACTUAL AND PROCEDURAL HISTORY

DLJ Mortgage Capital, Inc., (“DLJ”) initiated this action against Ana Sheridan and Roy Sheridan for debt and foreclosure on October 20, 2016.

On June 11, 2018, one week prior to the scheduled trial in this matter, Roy Sheridan identified Patrickson Thomas (“Thomas”)—a FirstBank PR employee—as a possible witness for the first time. Thereafter, on June 12, 2018, Roy Sheridan served a subpoena on Thomas which commanded his presence to appear and testify at the July 18, 2018 trial in this matter. On the same date, DLJ filed a motion *in limine* to exclude all evidence and witnesses not previously disclosed, including Thomas. Additionally, on June 15, 2018, FirstBank PR moved to quash the subpoena served on Thomas.

On June 18, 2018, the magistrate judge held a hearing on the motion *in limine* and the motion to quash. The magistrate judge found in favor of DLJ on the motion *in limine*. As a consequence, the magistrate judge found the motion to quash to be moot.

DLJ Mortgage Capital, Inc. v. Sheridan, et al.

Case No. 3:16-cv-85

Order

Page 2 of 3

Subsequently, on June 21, 2018, FirstBank PR filed a motion seeking attorneys' fees (the "fee petition") incurred in connection with its motion to quash. FirstBank PR's fee petition seeks an award of attorneys' fees in the amount of \$3,030. Roy Sheridan filed an opposition to FirstBank PR's motion on July 5, 2018. Thereafter, FirstBank PR filed a reply on July 13, 2018.

On October 1, 2018, the Court referred FirstBank PR's fee petition to the Magistrate Judge for a Report and Recommendation. On January 8, 2021, the Magistrate Judge issued her Report and Recommendation. The Magistrate Judge determined that fee petition should be denied because there had been no finding that the subpoena was facially deficient and she could not conclude that the subpoena was either unreasonable or unduly burdensome. The parties filed no objections to the Magistrate Judge's January 8, 2021 Report and Recommendation.

II. DISCUSSION

Litigants may make "specific written objections" to a magistrate judge's report and recommendation "[w]ithin 14 days after being served with a copy of the recommended disposition." *See* Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1) ("Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.").

When no objection to a magistrate's report and recommendation is made, the district court reviews the report and recommendation for plain error. *See Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) ("While . . . [28 U.S.C. § 636(b)(1)] may not require, in the absence of objections, the district court to review the magistrate's report before accepting it, we believe that the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report."); *see also Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) *aff'd*, 276 Fed. App'x 125 (3d Cir. 2008) (explaining that, by failing to object to a portion of a report and recommendation, the litigant "waived its right to have this Court conduct a *de novo* review," and that in those circumstances, "the scope of [the court's] review is far more limited and is conducted under the far more deferential standard of 'plain error'").

DLJ Mortgage Capital, Inc. v. Sheridan, et al.

Case No. 3:16-cv-85

Order

Page 3 of 3

Here, the parties did not file any objections to the Magistrate Judge's January 8, 2021 Report and Recommendation. As such, the Court reviews the Magistrate Judge's January 8, 2021 Report and Recommendation for plain error.

Having reviewed the record and the Report and Recommendation, the Court finds no error, let alone plain error.

The premises considered, it is hereby

ORDERED that the January 8, 2021 Report and Recommendation, ECF No. 194, is **ADOPTED**; it is further

ORDERED that FirstBank PR's motion for attorneys' fees, ECF No. 160 is **DENIED**; and it is further

ORDERED that FirstBank PR's motion, ECF No. 190, for a ruling on its motion for attorneys' fees is **MOOT**.

Dated: August 4, 2021

/s/ Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge