

14-51224

David A. McCrae  
Plaintiff - Appellant

v.

PHH Mortgage; Barrett, Burke, Daffin, Frappier, Turner and Engel, LLP  
Defendants, Appellees

**MORTGAGE AND CONSUMER FRAUD - COMPLEX**

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# Reply to Appellee Brief

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*Texas STOP  
Little House on the Prairie STOP  
Carpetbaggers STOP  
I'm Your Huckleberry END*

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I have asked this case to be remanded to District Court for proper trial of facts and issues before a jury. One appellee (PHH) continues his strategy of delay and obfuscation, and refuses to address the issues of this case. The other appellee (BDFTE) stands mute. This strategy is commonly employed by litigants of such vast resources, and is commonly successful. Both appellees continue in their business, and continue to earn respectable fees. I continue to stand in opposition. I have only my small computer. I earn no fees.

At the beginning of this case, I believed I was a member of a large class of plaintiffs such as myself, who were victims of PHH policy of mortgage foreclosures for fun and profit. The securitization of mortgages, along with inflation of property values to junk bond status, has successfully increased cash flow in this stodgy business of home loans and mortgage servicing to wuthering heights, and the new federal policies of keeping financials whole in face of occasional necessary foreclosure protect all investor parties from downside risk. The typical loss in times past of 40% of property value on foreclosure is now totally reimbursed to the institution, by the taxpayer, for the public good, and there is no incentive to preserve property value through negotiation with owners.

Neighborhoods are consequently blighted with foreclosure signs on houses serving as impromptu homeless shelters and stripped at night for copper and plumbing fixtures. The citizens who used to live in the houses, mow the lawn, pay taxes, go to school, buy groceries, visit doctors, fix their cars (or buy new cars) are now just foam on the runway. It is my contention that lucrative financial rewards have led to systematic abuse of individuals, and unjust enrichment of (un)regulated financial institutions such as PHH. I only have standing in the matter v. PHH, and am only able in this case to represent my own interest. This panel has regulatory authority and responsibility today over that institution.

While this case has proceeded to this lofty level of review, PHH has indeed been experiencing stress from the regulatory environment. In their SEC 10-K report of 2014 (attached), pp. 108-110, disclosed publicly on 27 February 2015, they have declared their intention to enter into a consent agreement with the DOJ, CFPB, and MMC, to address and remedy just such behaviors as I have claimed. That information is now in the public domain. They have apparently reserved \$50M in fees and fines to address such impairment to their future operating expenses. Such an amount appears ludicrously inadequate, in view of the billions in fines and restitution experienced by their compatriots since 2013.

I laud the efforts of the regulators, and laud the apparent Return-to-Jesus commitment of PHH. I think the pattern consent agreements signed to date with such institutions as Ocwen, Chase, JP Morgan, Bank of America, Citigroup, Wells Fargo, Ally, Greenstreet, and whoever else may be in progress, represent encouraging steps in the right direction. I look forward with great interest to the forthcoming consent agreement with PHH presently being inked.

Without any specific knowledge, as I am neither party nor signatory to such agreement as is currently in progress with the DOJ, I'm not sure how this future agreement will affect my situation, and I have no confidence that it will safeguard my interest. I would still like to present this case to a jury, in accord with my original intent. The government regulators apparently have compiled an impressive amount of irregular behavior in their discovery, and I would like to present that information to a jury. I expect to acquire counsel and certify a large class of individuals such as myself.

In other matters, in the same SEC report, PHH discloses Stock Repurchase Agreements of \$450M, far exceeding reported EBIT and EBITDA. As this stock is primarily held internally by corporate officers, I would like to advocate an immediate freeze on all Stock Repurchase Agreements, to prevent looting of assets by corporate officers, until this matter is properly remanded and

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adjudicated. My initial motion to the lower court on remand will also advocate an immediate moratorium on all foreclosures in progress by PHH and their agents.

Attachments -

PHH SEC 10K report 2014, released 022715

Parsley Memorandum Opinion, Bankruptcy Court Southern Texas, Case 05-90374, Doc 248, 3/5/2008

For Truth, Justice, and America,

DATE 18 April 2015

/s/David McCrae, pro se

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By e-Mail and CM/ECF

Sworn to on 18 April 2015 by \_\_\_\_\_ /s/David McCrae, Pro se

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