UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DENNLY R. BECKER, et al.,

Plaintiff,

v.

WELLS FARGO BANK, N.A. INC., et al.,

Defendant.

No. 2:10-cv-02799-TLN-KJN

ORDER

This matter is before the Court with regards to the disbursement of two bonds. On December 14, 2010, Plaintiff received a Preliminary Injunction preventing Defendant from foreclosing on Plaintiff's loans. (ECF No. 21.) The Court set a $500 bond and later amended the bond to require that Plaintiff make monthly payments in the amount of $3,645 for the duration of the injunction. (ECF Nos. 21 & 121.) Plaintiff made monthly payments from October 2010 to October 2014 resulting in a total of $91,635 when the case concluded with Defendant's motion for summary judgment. Plaintiff appealed the Court's order granting summary judgment in favor of Defendant and the Court held the bond pending the outcome of the appeal. (ECF No. 205.) On October 7, 2014, Defendant moved for an award of attorney's fees. (ECF No. 213.) On February 5, 2015, the Court granted Defendant's request for attorney's fees in the amount of $146,493.50. (ECF No. 227.) Plaintiff subsequently appealed the Court's award of attorney's fees and moved to place the attorney's fees in a supersedeas bond with the Court. (ECF Nos. 230

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& 232.) The Court granted Plaintiff's motion to post a supersedeas bond with regards to the award of attorney's fees in the amount of $188,706.43. (ECF No. 248.)

On December 7, 2016, this Court found that the appeals in the instant action had all concluded. The Court noted the only remaining issue was the disbursement of the two bonds held by the Court pending the conclusion of the appeals. (ECF No. 277.) The Court ordered the disbursement of the preliminary injunction bond such that Defendant received $84,335 and Plaintiff received "any funds remaining in the preliminary injunction bond account after the disbursement to Defendant." (ECF No. 264 at 2.) The Court did not direct the disbursement of the supersedeas bond.

Plaintiff notified the Court by email on January 30, 2017, that he believed that he had mistakenly received the funds from the supersedeas bond when the Court clerk disbursed the remaining funds of the preliminary injunction bond. In order to correct this error, Plaintiff suggests that he should submit a cashier's check to the court clerk in the amount of $188,706.43. The Court agrees with Plaintiffs proposed approach.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff shall deposit a cashier's check in the amount of $188,706.43 with the Clerk of Court within ten (10) days of this order. The Court shall hold the funds until such time as the Court issues an order disbursing the supersedeas bond.

2. The Clerk is directed to notify the financial department of this order.

3. The Court's Minute Order (ECF No. 278) regarding the disbursement of the supersedeas bond is hereby STRICKEN.

IT IS SO ORDERED.

Dated: February 2, 2017

Troy L. Nunley
United States District Judge