

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

ANNA WHITE FERRARACCIO, PLAINTIFF,
v. CIVIL ACTION NO. 5:24-cv-00700
NEW PEOPLES BANK, DEFENDANT.

**DEFENDANT'S RESPONSE TO THE COURT'S
SHOW CAUSE ORDER OF APRIL 29, 2025**

The Defendant, New Peoples Bank ("hereinafter referred to as "NPB"), responds to the Court's Order of April 29, 2025, directing the parties to file a Rule 26(f) report and show cause why it was not timely filed.

The Plaintiff is unrepresented in this action. The Plaintiff has been timely supplied by the undersigned Counsel with all appropriate Rules of this Court regarding responses to motions and to the matters involving the scheduling order and Rule 26(f) conference. She has demonstrated throughout this matter from the initial filing that she is unaware of the Rules of Procedure, Evidence and Local Rules regulating Federal Civil Practice in the Southern District of West Virginia.

The Plaintiff has only communicated with Counsel by email at Counsel's insistence so that there could be no misunderstanding of any communication between Counsel and the Plaintiff. Plaintiff has sought by the issuance of subpoenas and email demands to engage in discovery prematurely after being informed about the requirements of Fed. R. Civ. P. 26, L. R. Civ. P. 16.1(c) and being furnished copies thereof. She has been

informed about those requirements and encouraged in each communication to retain counsel familiar with Federal Civil practice. Counsel has noted and observed his obligation to the Plaintiff under W. Va. R. Pro. C. 4.3. Plaintiff has not made that obligation easy.

On March 24, 2025, Defendant caused to be conducted a foreclosure Trustee Sale on three properties of the Plaintiff or her corporation Pipestem Spa and Event Center, Inc., which foreclosure included the spa property securing the loan involved in this litigation, for non-payment of loan payments exceeding four (4) months after notices of default in the ordinary course of business. Plaintiff caused the three (3) properties to be essentially stripped of all items that could be removed, including hot water heaters, and conducted an auction within the week before the foreclosure. She loaded a vehicle with whatever she could transport on March 24, 2025, and left the spa property that day. Her whereabouts are unknown, but she posted on social media a few days later a picture with either her daughter or her sister, both of whom are residents of Florida.

On April 21, 2025, Counsel communicated with the Plaintiff by email furnishing the proposed Rule 26(f) report constructed from emails exchanged between Counsel and the Plaintiff and asked her to respond before the end of that week to file the report. Plaintiff has not responded in any fashion. Accordingly, Defendant tenders the Rule 26(f) report as what Counsel for Defendant believes is the majority of what was “agreed” with the Plaintiff in exchanges of emails.

Plaintiff after spending four (4) months of often sending emails has gone what can only be described as “radio silent” after her move. She has not communicated with Counsel at all after a March 19, 2025, email to Counsel responding to a Rule 26(f) outline of requirements.

Defendant has pending before the Court a dispositive Motion to Dismiss the Amended Complaint. When the initial Motion was filed, Counsel furnished Plaintiff with a copy of Local Rule 7.1, giving the time line for a response; no response was filed to either the initial Motion to Dismiss the Complaint or the Motion to Dismiss the Amended Complaint which was filed March 24, 2025. More than fourteen (14) days have expired since that filing.

NEW PEOPLES BANK,

By Counsel.

/s/ William S. Winfrey, II

William S. Winfrey, II (WVSB #4093)

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CERTIFICATE OF SERVICE

I, WILLIAM S. WINFREY, II, of counsel for Defendant, do hereby certify that a true and correct copy of the foregoing Defendant's Response to the Court's Show Cause Order of April 29, 2025, has this day been electronically filed with the Clerk of the Court via the CM/ECF filing system, as well as service upon the Plaintiff by United States Mail, postage prepaid, at her last-known address of:

Anna White Ferraraccio
41 Pipestem Spa Way
Pipestem, WV 25979
E: AnnaFerraraccio@gmail.com

This the 30th day of April, 2025.

/s/ William S. Winfrey, II
William S. Winfrey, II (WVSB #4093)
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