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Lucrezia Cabeza v. Federal Home Loan Mortgage Cor

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 15-3158

LUCREZIA CABEZA;
JUAN CABEZA,
Appellants

v.

FEDERAL HOME LOAN MORTGAGE CORPORATION,
As Trustee for Securitized Trust Freddie Mac Multiclass
Certificates, Series 3345; BANK OF AMERICA, N.A., as Servicer;
DOES 1 THROUGH 10, Inclusive

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil No. 2-15-cv-01589)
District Judge: Honorable Jose L. Linares

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
on November 14, 2016

Before: RESTREPO, SCIRICA, and FISHER, *Circuit Judges*

JUDGMENT ORDER

After consideration of all contentions raised by the Appellants in their brief and the brief submitted by Court Appointed Amicus Counsel;¹ it is

¹ The Court expresses its gratitude to Stephen A. Fogdall, Esq. of Schnader Harrison Segal & Lewis for his participation and submission of a brief as Court appointed Amicus Curiae.

ADJUDGED AND ORDERED that the 30 day time period for filing a notice of appeal applies to this case as the Federal Home Loan Mortgage Corporation is not an agency of the United States for the purposes of Fed. R. App. P. 4(a)(1), despite being placed into conservatorship, see 28 U.S.C. § 451; Gov't Nat. Mortg. Ass'n v. Terry, 608 F.2d 614, 617–18 (5th Cir. 1979) (applying § 451 to Ginnie Mae); see also In re Hoag Ranches, 846 F.2d 1225, 1227-28 (9th Cir. 1988) (discussing factors considered to determine when a party is an agency under Rule 4(a)(1) and § 451); cf. U.S. ex rel. Petras v. Simparel, Inc., 857 F.3d 497, 504 (3d Cir. 2017); Meridian Investments, Inc. v. Fed. Home Loan Mortg. Corp., 855 F.3d 573, 578–79 (4th Cir. 2017); U.S. ex rel. Adams v. Aurora Loan Services, Inc., 813 F.3d 1259, 1260–61 (9th Cir. 2016); Mik v. Federal Home Loan Mortg. Corp., 743 F.3d 149, 168 (6th Cir. 2014); and it is

FURTHER ADJUDGED AND ORDERED that the appeal is dismissed for lack of appellate jurisdiction as the notice of appeal was untimely filed.

By the Court,

s/Anthony J. Scirica
Circuit Judge

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: July 12, 2019