

**IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

In re  
DELORES L. BROWN,  
Debtor.

Case No. 22-20924  
Chapter 13

\_\_\_\_\_  
DELORES L. BROWN,  
Plaintiff,

v.

Adv. Proc. No. 23-00021

U.S. Bank, N.A., as Trustee for  
CB4b Grantor Trust 2016-1 and/or  
Bayview Opportunity Master Fund IVB  
Grantor Trust 2018-Rn6; Argolian, LLC; and  
Land Home Financial Services, Inc.,  
Defendants.

**ORDER DISMISSING COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF WITHOUT PREJUDICE**

This adversary proceeding came before the Court on June 13, 2023, at 10:30 a.m. on second scheduled pre-trial conference whether the Court considered (1) Dolores L. Brown’s (“Plaintiff’s”), Complaint for Declaratory and Injunctive Relief, (2) Land Home Financial

Services, Inc.'s Motion to Dismiss, (3) Land Home Financial Services, Inc.'s Motion to Dismiss, (4) Plaintiff/ Debtor's Response in Opposition To Defendant Argolian, LLLC's Motion to Dismiss, (5) Plaintiff/ Debtors' Response in Opposition to Defendant Land Home Financial Services, Inc.'s Motion to Dismiss, and (6) Land Home Financial Services, Inc.'s and Argolica, LLC's Reply to Plaintiff's Response to Motions to Dismiss. (Adv. Proc. ECF Nos. 1, 15, 18, 23, 24, and 27).

On February 25, 2023, Plaintiff filed a complaint seeking injunctive and declaratory relief, naming three Defendants, U.S. Bank, N.A., Argolian LLC, and Land Home Financial Services, Inc. On February 28, 2023, the Court issued a Summons and Notice of Pretrial Conference. Plaintiff did not file a certificate of service in this adversary proceeding evidencing that Plaintiff served the Complaint and Summons on the Defendants. At the initial pre-trial conference held on April 18, 2023, the Court pointed out the deficiencies in service and issued an *Alias Summons*, instructing Plaintiff's counsel to file a certificate of service showing that the *Alias Summons* and Complaint have been served on the Defendants.

On May 18, 2023, Land Home Financial Services filed a Motion to Dismiss all claims against it in the complaint, asserting, *inter alia*, that the complaint was not properly served. On May 22, 2023, Argolian, LLC, also filed a Motion to Dismiss all claims against it in the complaint, asserting, *inter alia*, that the complaint was not properly served. Defendant Argolian, LLC also contends that Plaintiff failed to name the proper party defendant. Named Defendant U.S. Bank, N.A. did not appear or otherwise respond to the Complaint.

On June 10, 2023, Plaintiff filed two certificates of service—one certificate for service on Argolian, LLC and the second for U.S. Bank. Plaintiff did not file a certificate of service for Land Home Financial Services. The filed certificates of service stated the date the mail was

received by certified mail, but not the date of service. Also, on June 10, 2023, Plaintiff filed responses to Land Home Financial Services's and Argolian, LLC's motions to dismiss, and asserted that service was proper. Plaintiff further stated that service on Land Home Financial Services was showing as "in transit." On June 12, 2023, Defendants Land Home Financial Services and Argolian, LLC filed a joint reply to the Plaintiff's responses to their motions to dismiss. Defendants reiterated that service was not proper under Bankruptcy Rule 7004 and Plaintiff named the wrong party defendant.

Based on the Court's review of the motions, responses, filed certificates of service, and arguments of counsel for Plaintiff and Defendants, the Court concludes that the complaint should be dismissed without prejudice. Accordingly, it is **ORDERED**:

1. Complaint is dismissed without prejudice.
2. No later than twenty-eight (28) days from the entry of this Order, Plaintiff shall file an amended complaint that names the proper defendants and cures all other deficiencies.
3. Upon filing of the amended complaint, the Court will issue a new Summons (with a Notice of Pretrial Conference).
4. Plaintiff shall serve the newly issued Summons with the amended complaint consistent with Bankruptcy Rule 7004, with special attention given to Bankruptcy Rule 7004(h) for any defendant that is an Insured Depository Institution.
5. After service of the amended complaint and Summons, Plaintiff shall file the proof of service or certificate of service in the adversary proceeding.

cc: Debtor/Plaintiff  
Attorney for Debtor/Plaintiff  
Defendants  
Attorneys for Defendants  
Chapter 13 Trustee