

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

SEP 30 2014

TIM RHODES
COURT CLERK

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OKLAHOMA DEPARTMENT OF SECURITIES,)
EX. REL. IRVING L. FAUGHT, ADMINISTRATOR)

Plaintiff,)

v.)

SEABROOKE INVESTMENTS LLC, AND)
OKLAHOMA LIMITED LIABILITY COMPANY,)
ET. AL,)

Defendants.)

Case No. CJ-2014-4515

Notice of Hearing

A hearing on this motion is set for
~~November~~ 5, 2014 at
9:00 a.m. o'clock before the
Honorable Patricia Parrish, in her courtroom
in the Oklahoma County Courthouse in
Oklahoma City, Oklahoma.

Dec.

**MOTION OF FIRST NATIONAL BANK AND TRUST COMPANY OF
WEATHERFORD, N.A. TO INTERVENE,
WITH BRIEF IN SUPPORT**

Pursuant to Okla. Stat. tit. 12, § 2024, First National Bank and Trust Company of Weatherford, N.A. ("FNB-Weatherford"), asks that this court allow it to intervene in this lawsuit, and be joined as an intervening defendant herein. In support thereof, FNB-Weatherford would show this court the following:

1. FNB-Weatherford is a corporation chartered under the laws of the United States, with its principal office in Weatherford, Oklahoma.

2. Okla. Stat. tit. 12, § 2024(A) and (B) states:

A. INTERVENTION OF RIGHT. Upon timely application anyone shall be permitted to intervene in an action:

1. When a statute confers an unconditional right to intervene; or
2. When the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest.

B. PERMISSIVE INTERVENTION. Upon timely application anyone may be permitted to intervene in an action:

1. When a statute confers a conditional right to intervene; or
2. When an applicant's claim or defense and the main action have a question of law or fact in common.

When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

3. FNB Weatherford is a secured creditor under four secured loans either made to, or guaranteed by, the following Seabrooke related entities and/or secured by mortgages against their real property and/or rents (as provided for in its loan documents):

Tom Seabrooke;
Judith Seabrooke;
Seabrooke Realty, LLC
Oakbrooke Homes, LLC
Briargate Plaza, LLC.

FNB-Weatherford has provided detailed information to the receiver regarding the structure, security, and amounts owed for each loan.

4. The receiver is administering the property of these entities/loan debtors. The receiver is collecting rents from the Briargate Plaza Apartments, a 32 unit apartment complex owned by Briargate Plaza, LLC. The receiver reportedly intends to sell one or more of the properties mortgaged to FNB-Weatherford. The receiver is receiving compensation to be paid, per prior orders of the court, on a priority claim basis. A temporary injunction has been issued

requiring that banks hold and retain receivership assets, and prohibiting the withdrawal, transfer, assignment, pledge, sale or other disposal of any receivership assets in their possession or control, except upon further order of the court. Additional orders may be entered in this case vis-a-vis these issues. FNB–Weatherford is entitled to notice and an opportunity to be heard on all matters that may adversely affect its property rights.

5. FNB–Weatherford’s loans to Oakbrooke, LLC are in default.

6. While FNB–Weatherford and the receiver have, to date, been cooperating and working together in mutual interest (and hopefully can continue to do so), the interests of the receiver are not identical to, or permanently fixed and aligned with, those of FNB–Weatherford. As the factual circumstances of this receivership evolve, it may become necessary for FNB–Weatherford to move quickly to protect its interest in this case, which protective actions may include seeking relief from one or more orders of the court, and/or to include asking seeking the abandonment of certain assets from the receivership estate. It is therefore imperative that FNB–Weatherford be permitted to intervene so that it is positioned to seek such relief expeditiously should it be necessary for it to do so.

7. For the reasons set forth in paragraphs 3 through 6, FNB–Weatherford claims an interest relating to the property or transaction which is the subject of the action. It is “so situated that the disposition of the action may as a practical matter impair or impede” its ability to protect its interest. The requirements for intervention as of right are satisfied, and FNB-Weatherford is entitled to intervene as of right. Okla. Stat. tit. 12, § 2024(A). It is appropriate that it be made a party to this action.

8. Alternatively, for the reasons set forth in paragraphs 3 through 6, FNB-Weatherford should be permitted to intervene pursuant to Okla. Stat. tit. 12, § 2024(B).

9. Okla. Stat. tit. 12, § 2024(C) states:

C. PROCEDURE. A person desiring to intervene shall serve a motion to intervene upon the parties as provided in Section 2005 of this title. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. If the motion to intervene is granted, the plaintiff or defendant, or both, may respond to the pleading of the intervenor within twenty (20) days after the date that the motion was granted unless the court prescribes a shorter time.

The initial pleading (in substantially final form) that FNB-Weatherford desires to file is attached hereto as DX-1. With respect to any answer/initial pleading ultimately filed, FNB-Weatherford reserves the right to amend the same as allowed by law.

WHEREFORE, FNB-Weatherford asks that the court enter an order: (1) Granting its request to intervene herein, and decreeing that it is thereby joined as an intervening defendant in this action; (2) Permitting FNB-Weatherford to serve the attached answer within 5 business days of entry of the order (with edits, as appropriate, necessary to make it true and correct at time of filing); and (3) Grant FNB-Weatherford such other relief as the court deems just.

Respectfully submitted,



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-Of the Firm-

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ATTORNEY FOR FIRST NATIONAL BANK
AND TRUST COMPANY OF
WEATHERFORD,
N.A.

CERTIFICATE OF SERVICE

This is to certify that a copy of the above and foregoing was mailed, postage prepaid,
on the 30th day of September, 2014, to:

Jennifer Shaw
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102

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STATE OF OKLAHOMA

OKLAHOMA DEPARTMENT OF SECURITIES,)
EX. REL. IRVING L. FAUGHT, ADMINISTRATOR)

Plaintiff,)

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v.)

SEABROOKE INVESTMENTS LLC, AND)
OKLAHOMA LIMITED LIABILITY COMPANY,)
ET. AL,)

Defendants.)

and)

FIRST NATIONAL BANK AND TRUST)
COMPANY OF WEATHERFORD, N.A.,)

Intervening Defendant.)

**ANSWER OF FIRST NATIONAL BANK AND TRUST COMPANY
OF WEATHERFORD, N.A.**

First National Bank and Trust Company of Weatherford, N.A. ("FNB-Weatherford"), for its answer to Plaintiff's for Permanent Injunction and Other Relief, hereby denies each and every allegation of the Petition except as specifically admitted herein, and in further response to the numbered paragraphs of the petition, hereby states:

1-5. FNB-Weatherford does not have sufficient information to admit or deny the averments of numbered paragraphs 1-5.

6. The first sentence of paragraph 6 is admitted. FNB-Weatherford does not have sufficient information to admit or deny the remaining averments of numbered paragraph 6.



7. The first sentence of paragraph 7 is admitted. FNB–Weatherford does not have sufficient information to admit or deny the remaining averments of numbered paragraph 7.

8-11. FNB–Weatherford does not have sufficient information to admit or deny the averments of numbered paragraphs 8-11.

12-13. That Tom and Judith Seabrooke are Oklahoma residents is admitted. FNB–Weatherford does not have sufficient information to admit or deny the remaining averments of numbered paragraph 12-13.

14-54. FNB–Weatherford does not have sufficient information to admit or deny the averments of numbered paragraphs 14-54.

ADDITIONAL DEFENSES

1. FNB Weatherford is a secured creditor under four secured loans either made to, or guaranteed by, the following Seabrooke related entities and/or secured by mortgages against their real property and/or rents (as provided for in its loan documents):

Tom Seabrooke;
Judith Seabrooke;
Seabrooke Realty, LLC
Oakbrooke Homes, LLC
Briargate Plaza, LLC.

FNB–Weatherford’s (multiple) mortgage filings are of public record, and the same are hereby incorporated by reference.

2. FNB-Weatherford’s (multiple) mortgages were recorded prior the filing of this action, and the appointment of the receiver.

3. Any compensation awarded to the receiver and/or his professionals, should be limited to reasonable amounts, and paid from receivership property in a fair and equitable

manner, and only as allowed by law and the orders of the court.

4. FNB–Weatherford is entitled to seek one or more orders to adequately protect its interests in this case and/or to seek relief from court orders in order to protect its interests in this case.

5. FNB–Weatherford claims all rights under its loan documents.

Wherefore, having answered Plaintiff’s petition, FNB–Weatherford ask that the Plaintiff have relief on its petition only as consistent with the rights and interests of FNB–Weatherford. FNB–Weatherford also asks for such other relief as the court deems just.

Respectfully submitted,

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ATTORNEY FOR FIRST NATIONAL BANK
AND TRUST COMPANY OF WEATHERFORD,
N.A.

CERTIFICATE OF SERVICE

This is to certify that a copy of the above and foregoing was mailed, postage prepaid,
on the ___ day of _____, 2014, to:

Jennifer Shaw
Oklahoma Department of Securities
120 North Robinson, Suite 860
Oklahoma City, OK 73102

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