

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-11328
Non-Argument Calendar

D.C. Docket No. 1:16-cv-01062-RWS

DEXTER HENNINGTON,

Plaintiff-Appellant,

versus

NATIONSTAR MORTGAGE, LLC,
a foreign (non-Georgia incorporated) corporation,

Defendant-Appellee,

DOES 1-10,

Defendant.

Appeal from the United States District Court
for the Northern District of Georgia

(April 30, 2019)

Before ED CARNES, Chief Judge, ANDERSON, and JULIE CARNES, Circuit Judges.

PER CURIAM:

The district court dismissed the underlying lawsuit in this appeal based on application of the doctrine of judicial estoppel because of the plaintiff-appellant's failure to disclose that he had pending Truth in Lending Act claims against the mortgagee or its successor-in-interest involving a mortgage on some of the plaintiff's property. After the appeal was filed, this Court decided Slater v. United States Steel Corp., 871 F.3d 1174 (11th Cir. 2017) (en banc). The district court has not had an opportunity to decide whether to apply the doctrine of judicial estoppel, as refined in Slater, under the facts and circumstances of this case. Our review of decisions involving judicial estoppel is limited to abuse of discretion.

For these reasons, we are remanding this case to the district court for it to decide in the first instance if, in light of Slater, judicial estoppel bars the TILA claims in this lawsuit. In doing so, we express no view on that issue.

VACATED AND REMANDED.