

Filed 10/30/20 Sheen v. FCI Lender Services, Inc. CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

KWANG K. SHEEN,

Plaintiff and Appellant,

v.

FCI LENDER SERVICES, INC.,

Defendants and Respondents.

B297640

(Los Angeles County
Super. Ct. No. BC631510)

APPEAL from a judgment of the Superior Court of Los Angeles County, Patricia D. Nieto, Judge. Affirmed.

Los Angeles Center for Community Law and Action, Noah Grynberg, Tyler Anderson and Gina Hong for Plaintiff and Appellant.

Blank Rome, Cheryl S. Chang and Jessica A. McElroy for Defendant and Respondent.

Last year, we ruled Wells Fargo Bank owed Kwang Sheen no tort duty during contract negotiations. (*Sheen v. Wells Fargo Bank, N.A.* (2019) 38 Cal.App.5th 346, review granted Nov. 13, 2019, S258019 (*Sheen 1*).

Now we have the same plaintiff and his same lawyer and their same second amended complaint against a different defendant in that same case: FCI Lender Services, Inc. (See *Sheen 1, supra*, 38 Cal.5th at p. 349, review granted.) The posture is different: Wells Fargo escaped on demurrer, while FCI won a summary judgment motion. But these differences are inessential: absent a tort duty, Sheen has no case. In *Sheen 1* we sided with the cases ruling no such tort duty exists. (*Id.* at pp. 351–358.) We stand by that view, which controls this case pending resolution of the question by our Supreme Court.

DISPOSITION

We affirm the judgment and award costs to respondents.

WILEY, J.

We concur:

STRATTON, Acting P. J.

SALTER, J.*

* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.