

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BRIAN BARNHART, HOLLY STUART
BARNHART,

Plaintiffs,

vs.

Case No. 2:11-cv-534-FtM-29DNF

WELLS FARGO BANK NA, as trustee, for
option one mortgage loan trust 2007-
CP1 asset-backed certificates,
series 2007-CP1,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #22), filed October 9, 2012, recommending that the case be dismissed for failure to prosecute. No objections have been filed and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de*

novo, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

On July 9, 2012, the Court issued an Opinion and Order (Doc. #18) granting a partial motion to dismiss without prejudice and directing counsel for plaintiffs to seek withdrawal or file an amended complaint. Counsel sought to withdraw, which request was granted, and plaintiffs' address was added to the docket. (See Doc. #20.) After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge.

Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #22) is hereby **adopted** and the findings incorporated herein.
2. The case is **dismissed** without prejudice.
3. The Clerk shall enter judgment dismissing the case without prejudice, terminate all deadlines and motions, and close the file.

DONE AND ORDERED at Fort Myers, Florida, this 30th day of October, 2012.



JOHN E. STEELE
United States District Judge

Copies:
Hon. Douglas N. Frazier
United States Magistrate Judge

Counsel of Record
Unrepresented parties