

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TAMIKA WEBB,

Plaintiff,

v.

1:14-cv-00284-WSD

**BRANCH BANKING & TRUST,
and MCCALLA RAYMER, LLC**

Defendants.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Clayton Scofield's Report and Recommendation ("R&R"), recommending that the Defendants' Motion to Dismiss be denied as moot [13].

On January 31, 2014, Plaintiff filed a four count Complaint in which she alleged that the Defendants violated federal and state law in connection with the foreclosure of her home. On February 24, 2014, the Defendants moved to dismiss the Complaint for failure to state a claim upon which relief can be granted. On March 3, 2014, Plaintiff filed a Motion for Leave to Amend her Complaint. The Magistrate Judge found that Plaintiff did not need leave of Court to amend her Complaint because Federal Rule of Civil Procedure 15(a)(1)(B) allows a plaintiff


to amend her complaint “as a matter of course within 21 days after service of a motion under Rule 12(b).” See Fed. R. Civ. P. 15(a)(1)(B). Because Plaintiff filed her Amended Complaint within 21 days after service of the Defendants’ Motion to Dismiss, the Magistrate Judge determined that the Amended Complaint should be deemed filed as of March 7, 2014. The Magistrate Judge thus recommended that Defendants’ Motion to Dismiss should be denied as moot because Plaintiff amended her original Complaint. The parties did not object to the R&R’s findings and conclusions. Having found no plain error in the Magistrate Judge’s recommendation, the Court adopts the R&R.

Accordingly, for the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Clayton Scofield’s R&R is **ADOPTED**.

IT IS FURTHER ORDERED that the Defendants’ Motion to Dismiss is **DENIED AS MOOT** [13].

SO ORDERED this 30th day of May 2014.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE