

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MELVIN L. SEALEY,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:14cv1036-MHT
)	(WO)
TAMARA A. STIDHAM (Senior)	
Vice Pres. of Branch)	
Banking and Trust)	
Company), et al.,)	
)	
Defendants.)	

OPINION

Plaintiff Melvin L. Sealey filed this lawsuit asserting a variety of claims related to the foreclosure of his property. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that defendants' motion to dismiss Sealey's case be granted and that various motions filed by Sealey be denied. There are no objections to the recommendation. However, Sealey has filed a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) as to four of the five

defendants: Tamara A. Stidham, Edward A. R. Miller, Richard A. Wright, and Kelly S. King. This voluntary dismissal is permissible under the applicable rule because these defendants have not yet filed an answer or motion for summary judgment. Thus, the recommendation will be withdrawn as to these four defendants.

After an independent and de novo review of the record, the court concludes that the magistrate judge's recommendation should be adopted as to the remaining defendant, Branch Banking and Trust, with a minor exception. The recommendation mistakenly asserts that Branch Banking and Trust was not named as a party and was not served. See Recommendation (doc. no. 30), at 18; but see Complaint (doc. no. 1-2), at 3 (listing Branch Banking and Trust as a defendant). While it is unclear whether Branch Banking and Trust was properly served, it has appeared through counsel in this matter, joined in filing the notice of removal and motion to dismiss, and seemingly acknowledged having been served

in the notice of removal. In any case, this minor misstatement makes no difference in the result. In addition, the recommended denial of Sealey's motion to amend the complaint is proper because Sealey has not shown how amendment would allow him to state a viable claim (for example, by noting 'how' in an objection to the recommendation) and because it does not appear that an amendment would save his claims.

An appropriate judgment will be entered.

DONE, this the 27th day of August, 2015.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE