

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

EDWARD AGOSTINELLI, <u>et al.</u>,	:	
	:	
Plaintiffs,	:	
	:	
VS.	:	CIVIL ACTION NO. 10-00294-CG-B
	:	
FIFTH THIRD BANK, <u>et al.</u>,	:	
	:	
Defendants.	:	

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a de novo determination of those portions of the Report and Recommendation to which objection is made¹, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. §636(b)(1)(B) is **ADOPTED** as the opinion of this Court. It is **ORDERED** that Defendant TrackSure Insurance Agency’s Motion to Dismiss Plaintiffs’ Amended Complaint (Doc. 34), Defendant Assurant, Inc.’s Motion to Dismiss Plaintiffs’ Amended Complaint (Doc. 36), and Defendants TrackSure Insurance Agency and Assurant, Inc.’s Joint Motion to Stay or, in the Alternative to Dismiss Defendant Fifth Third Bank’s Cross-claim or Motion for a More Definite Statement (Doc. 67) are **DENIED**.

DONE and ORDERED this 26th day of May, 2011.

/s/ Callie V. S. Granade

 UNITED STATES DISTRICT JUDGE

¹ While the court recognizes that certain of Assurant Inc.’s arguments may ultimately prevail, at this stage the court finds the allegations against Assurant to be sufficient to proceed with the litigation.