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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Lisa S. Jackson,)	No. CV 12-502-TUC-RCC
Plaintiff,)	ORDER
vs.)	
Wells Fargo Bank, N.A., et al.,)	
Defendants.)	

Before the Court are: (1) Defendant Wells Fargo’s Motion to Dismiss (Doc. 4); (2) Defendant Tiffany & Bosco’s Motion to Dismiss (Doc. 5); and a Report and Recommendation (“R&R”) issued by Magistrate Judge Hector C. Estrada. The Court accepts and adopts Magistrate Judge Estrada’s R&R as the findings of fact and conclusions of law of this Court and will dismiss this case without prejudice.

I. Background

On July 6, 2012, this matter was removed from state court by Defendant Wells Fargo Bank. The civil cover sheet submitted with the Notice of Removal reflects Plaintiff’s address as 11200 S. Bell Ranch Road, Pearce, AZ 85625. Defendant Wells Fargo indicated that the Notice of Removal and accompanying exhibits were mailed to Plaintiff at the Bell Ranch Road Address. The case was assigned to District Judge Cindy K. Jorgenson. Thereafter, on July 13, 2012 Defendant Wells Fargo filed the pending Motion to Dismiss. Additionally,

1 under LR Civ. 7.2(I). The form was not returned to the Court and no responses to
2 the motions to dismiss were filed. There is no indication in the record that Plaintiff requested
3 that mail regarding this action be sent to her at the Bell Ranch Road address. Plaintiff not
4 having so requested, it is questionable whether she received the mail directed to that address.
5 Further, in her state filing, Plaintiff indicated the HC1 Address on her Complaint, and that
6 the Notice of Pendency of Action: Lis Pendens, filed the same day as the Complaint, should
7 be mailed to her at the HC1 address after it was recorded. The Court notes Defendant Wells
8 Fargo's statement that the property at the HC1 address was sold upon a Trustee's Sale in
9 March 2012. Nonetheless, Plaintiff chose to use the HC1 address when she filed the instant
10 action in state court in May 2012. Therefore, on October 2, 2012, the Court directed the
11 Clerk of Court to amend the docket to reflect the HC1 address listed on Plaintiff's Complaint
12 that had been removed to this Court. The Court also directed that Documents 7 and 8 be
13 re-sent to Plaintiff at that address. Defendants were granted five days leave to send their
14 Notice of Removal and pending motions to the HC1 address. On October 3, 2012,
15 Defendants filed notices indicating they had served Plaintiff with their motions to dismiss
16 at the HC1 address. Thereafter, on October 15, 2012, the Court issued an Order advising
17 Plaintiff, inter alia, that if she failed to respond to Defendants' motions by November 13,
18 2012, the Court may deem her failure to file the required responses as her consent to the
19 granting of the motions. All Court mail sent to Plaintiff at the HC1 address has been returned
20 to the Court with indications that delivery was "Attempted-Not Known" or "Attempted-Not
21 Known Unable to Forward."

22
23 Magistrate Judge Estrada recommended that the Court dismiss Plaintiff's case
24 pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, under which a court may
25 dismiss a case for failure to prosecute or failure to comply with a court order. Further, Local
26 Rule 7.2(i) provides that a party's failure to file a required response, "such non-compliance
27 may be deemed a consent to the denial or granting of the motion and the Court may dispose
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1 of the motion summarily.” LRCiv. 7.2(i).

2 **II. Discussion**

3 The duties of the district court in connection with a R & R are set forth in Rule 72 of
4 the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may
5 “accept, reject, or modify the recommended disposition; receive further evidence; or return
6 the matter to the magistrate judge with instructions. FED.R.CIV.P. 72(b)(3); 28 U.S.C. §
7 636(b)(1).

8 Where the parties object to a R & R, “[a] judge of the [district] court shall make a *de*
9 *novo* determination of those portions of the [R & R] to which objection is made.” 28 U.S.C.
10 § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).
11 When no objection is filed, the district court need not review the R & R *de novo*. *Wang v.*
12 *Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d
13 1114, 1121-22 (9th Cir.2003) (en banc). Therefore to the extent that no objection has been
14 made, arguments to the contrary have been waived. *McCall v. Andrus*, 628 F.2d 1185, 1187
15 (9th Cir.1980) (failure to object to Magistrate's report waives right to do so on appeal); *see*
16 *also*, Advisory Committee Notes to Fed.R.Civ.P. 72 (citing *Campbell v. United States Dist.*
17 *Court*, 501 F.2d 196, 206 (9th Cir.1974) (when no timely objection is filed, the court need
18 only satisfy itself that there is no clear error on the face of the record in order to accept the
19 recommendation).

20
21 The Court will not disturb a Magistrate Judge’s Order unless his factual findings are
22 clearly erroneous or his legal conclusions are contrary to law. 28 U.S.C. § 636(b)(1)(A).
23 “[T]he magistrate judge's decision ... is entitled to great deference by the district court.”
24 *United States v. Abonce-Barrera*, 257 F.3d 959, 969 (9th Cir.2001). A failure to raise an
25 objection waives all objections to the magistrate judge’s findings of fact. *Turner v. Duncan*,
26 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a Magistrate Judge’s conclusion “is
27 a factor to be weighed in considering the propriety of finding waiver of an issue on appeal.”
28 *Id.* (internal citations omitted).

1 Plaintiff has filed no objections to the R&R, which relieves the Court of its obligation
2 to review. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.2003); *Thomas*
3 *v. Arn*, 474 U.S. 140, 149, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985) (“[Section 636(b)(1)] does
4 not ... require any review at all ... of any issue that is not the subject of an objection.”);
5 Fed.R.Civ.P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate
6 judge's disposition that has been properly objected to.”). However, even conducting a *de*
7 *novo* review of the record, this Court considers the R&R to be thorough and well-reasoned.
8 Therefore, the Court will adopt the R&R of Magistrate Judge Estrada.

9 Accordingly,

10 **IT IS HEREBY ORDERED** that Magistrate Judge Estrada’s Report and
11 Recommendation (Doc. 22) is hereby **ACCEPTED** and **ADOPTED** as the findings of fact
12 and conclusions of law by this Court.

13 **IT IS FURTHER ORDERED denying** Defendant Wells Fargo’s Motion to Dismiss
14 (Doc. 4) as **moot**.

15 **IT IS FURTHER ORDERED denying** Defendant Tiffany & Bosco’s Motion to
16 Dismiss (Doc. 5) as **moot**.

17 **IT IS FURTHER ORDERED** this action is **dismissed without prejudice**, and the
18 Clerk shall enter judgment and close this case.

19 DATED this 5th day of February, 2013.

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Raner C. Collins
United States District Judge