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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

William Nogales, Jr.; and Paul N. Papas II,)	No. CV-13-034-TUC-FRZ-DTF
)	
Plaintiffs,)	ORDER
vs.)	
)	
America's Servicing Co., et al.,)	
)	
Defendants.)	

Pending before the Court are Defendant Deep Canyon's Motion to Dismiss and Defendant Wells Fargo's¹ Motion to Dismiss.

This matter was referred to the United States Magistrate Judge for all pretrial proceedings and report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) and LRCiv 72.1 and LRCiv 72.2, Rules of Practice of the United States District Court for the District of Arizona.

On June 17, 2013, Magistrate Judge D. Thomas Ferraro, following his review and consideration of the motions to dismiss, responses and replies filed thereto, issued his Report and Recommendation, recommending that the District Court, after its independent review of the record, enter an order granting the motions to dismiss.

¹ The Report and Recommendation clarifies that the named Defendants connected to Wells Fargo are America's Servicing Company and Wells Fargo HM Mortgage. Defendants have clarified that the proper entity is Wells Fargo Bank, N.A.

1 The Report and Recommendation sets forth the factual background giving rise to this
2 action filed pro se, and a thorough analysis of the motions to dismiss under the applicable
3 legal standards, finding that “Plaintiffs have waived all objections to the property sale,
4 pursuant to A.R.S. § 33-811(C)” and that “[b]ecause the validity of the sale underlies all of
5 Plaintiffs’ claims, the Amended Complaint fails to state a claim against Wells Fargo.” The
6 Magistrate Judge further found that “because the entirety of the complaint is focused on
7 invalidating the sale, the Court finds that amendment could not cure the defects.”

8 The parties were advised that, pursuant to Federal Rule of Civil Procedure 72(b)(2),
9 any party may serve and file written objections within fourteen days of being served with a
10 copy of the Report and Recommendation and that a party may respond to the other party’s
11 objections within fourteen days.

12 Plaintiff Paul Papas filed a timely “Objection and Opposition to Judge Magistrate
13 Report” on July 1, 2013.²

14 Defendant Wells Fargo Bank, N.A. was granted an extension, and filed its response
15 to the Plaintiff’s objection.

16 Upon review and consideration of all matters presented, including the objection and
17 response thereto, and an independent review of the record herein, the Court finds that the
18 Report and Recommendation of the Magistrate Judge shall be accepted and adopted as the
19 findings of fact and conclusions of law of this Court. Accordingly,

20 **IT IS HEREBY ORDERED** that Magistrate Judge Ferraro’s Report and
21 Recommendation (Doc. 38) is **ACCEPTED** and **ADOPTED** as the findings of fact and
22 conclusions of law by this Court;

23 **IT IS FURTHER ORDERED** that the Motion to Dismiss Improper Party (Doc. 10)
24 and Defendant Wells Fargo Bank, N.A.’s Motion to Dismiss Plaintiffs’ Amended Verified
25 Complaint (Doc. 11) are **GRANTED**;

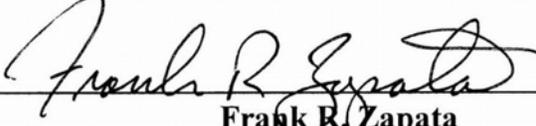
26 _____
27 ²As discussed in the Report and Recommendation, Plaintiff William Nogales is deceased
28 as of April 11, 2013.

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IT IS FURTHER ORDERED that all other pending matters (Docs 29, 30, 35 and 36) are **DENIED** as moot;

IT IS FURTHER ORDERED that the Clerk of Court enter judgment accordingly.

DATED this 29th day of August, 2013.



Frank R. Zapata
Senior United States District Judge