

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Robert E. Blackburn**

Civil Case No. 10-cv-03016-REB-MJW

MARLA D. SNEED,

Plaintiff,

v.

PNC BANK, NATIONAL ASSOCIATION,  
AMERICAN UNITED MORTGAGE,  
FIRST COLORADO MORTGAGE CORPORATION,  
NATIONS BANC,  
BANK OF AMERICA,  
RESIDENTIAL ACCEPTANCE NETWORK,  
NATIONAL CITY MORTGAGE,  
BANK OF THE WEST, and  
JOHN AND JANE DOES,

Defendants.

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**ORDER ADOPTING RECOMMENDATION OF  
THE UNITED STATES MAGISTRATE JUDGE**

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**Blackburn, J.**

This matter is before me on the following: (1) the **Motion of Defendants PNC Bank, National Association, and National City Mortgage To Dismiss Plaintiff's Complaint Pursuant To FED. R. CIV. P. 12(b)(6)** [#31]<sup>1</sup> filed March 3, 2011; and (2) the **Recommendation on Motion of Defendants PNC Bank, National Association, and National City Mortgage To Dismiss Plaintiff's Complaint Pursuant To FED. R. CIV. P. 12(b)(6) (Docket No. 31)** [#48] filed September 7, 2011. The plaintiff filed objections

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<sup>1</sup> "[#31]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

[#55] to the recommendation, and the defendants filed a response [#56] to the objections. I overrule the objections, approve and adopt the recommendation, grant the motion to dismiss, and dismiss this case.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which objections have been filed. I have considered carefully the recommendation, objections, and applicable caselaw.

Because plaintiff is proceeding *pro se*, I have construed her pleadings and other filings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10<sup>th</sup> Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991) (citing ***Haines v. Kerner***, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)). However, I have not acted as an advocate for the plaintiff.

The recommendation is detailed and well-reasoned. Contrastingly, the plaintiff's objections are imponderous and without merit.

The plaintiff's complaint concerns a foreclosure on real estate owned by the plaintiff. The plaintiff contends that the foreclosure is not proper because (a) she has not been provided with the original promissory note; (b) the lender did not sign the promissory note; (c) securitization of a loan is illegal; and (d) the promissory note is invalid because it has an adjustable interest rate. In the recommendation [#48], the magistrate judge analyzes correctly each of these issues in the context of the plaintiff's complaint and the issues raised in the briefing on the motion to dismiss. Ultimately, the

magistrate judge concludes correctly that the motion to dismiss of defendants, PNC Bank, National Association, and National City Mortgage, should be granted. In addition, the magistrate judge recommends correctly that the claims against the remaining defendants, who have not been served with a summons and the compliant, be dismissed under 28 U.S.C. § 1915(e)(2)(B).

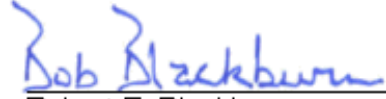
**THEREFORE, IT IS ORDERED** as follows:

1. That the **Recommendation on Motion of Defendants PNC Bank, National Association, and National City Mortgage To Dismiss Plaintiff's Complaint Pursuant To FED. R. CIV. P. 12(b)(6) (Docket No. 31) [#48]** filed September 7, 2011, is **APPROVED** and **ADOPTED** as an order of this court;
2. That the plaintiff's objections [#55] to the recommendation are **OVERRULED**;
3. That the **Motion of Defendants PNC Bank, National Association, and National City Mortgage To Dismiss Plaintiff's Complaint Pursuant To FED. R. CIV. P. 12(b)(6) [#31]** filed March 3, 2011, is **GRANTED**;
4. That under FED. R. CIV. P. 12(b)(6), the plaintiff's claims against defendants, PNC Bank, National Association, and National City Mortgage, are **DISMISSED**;
5. That under 28 U.S.C. § 1915(e)(2)(B), the plaintiff's claims against all other defendants are **DISMISSED**;
6. That **JUDGMENT SHALL ENTER** in favor of the defendants, PNC Bank, National Association, American United Mortgage, First Colorado Mortgage Corporation, Nations Banc, Bank of America, Residential Acceptance Network, National City Mortgage, and Bank of the West;

7. That the defendants are **AWARDED** their costs, to be taxed by the clerk of the court under Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1.

Dated February 28, 2012, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge