

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 11-cv-03184-WYD-KLM

LINDA SUE FICK,

Plaintiff,

v.

US BANK NATIONAL ASSOC.;
CITIGROUP MORTGAGE LOAN TRUST;
WELLS FARGO;
NEW CENTURY MORTGAGE;
AMERICA'S SERVICING COMPANY;
CITIGROUP MORTGAGE LOAN TRUSTS; and
CASTLE STAWIARSKI,

Defendants.

**ORDER AFFIRMING AND ADOPTING RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

THIS MATTER is before the Court in connection with the Order to Show Cause, [ECF No. 50], entered by Magistrate Judge Kristen L. Mix on August 13, 2012. Magistrate Judge Mix issued a Recommendation on September 5, 2012 [ECF No. 51] wherein she ordered that the Order to Show Cause be made absolute and she recommended that certain defendants be dismissed from the case without prejudice. The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b), D.C.COLO.LR. 72.1.

Magistrate Judge Mix recommends that Defendants Citigroup Mortgage Loan Trust, Citigroup Mortgage Loan Trusts (collectively, the "Citigroup Defendants"), New Century Mortgage, and Castle Stawiarski, LLC ("Castle") be dismissed without prejudice

pursuant to Fed. R. Civ. P. 4(m) for lack of service. As Magistrate Judge Mix explains, on December 7, 2011, Plaintiff initiated this action *pro se* and was given leave to proceed *in forma pauperis*. However, Plaintiff has failed to provide sufficient information for the Court to effect service of the Summons and Complaint, as it is required to do under Fed. R. Civ. P. 4(c). In the Order to Show Cause, the Court directed Plaintiff to show cause, in writing, as to why her claims against the Citigroup Defendants, New Century Mortgage, and Castle should not be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m) & 41(b). Plaintiff never responded to the Show Cause Order and now more than 120 days have passed since the Complaint was filed.

Magistrate Judge Mix advised the parties that written objections were due within fourteen (14) days after service of a copy of the Recommendation. (Recommendation at 3.) Despite this advisement, no objections were filed to the Recommendation. No objections having been filed, I am vested with discretion to review the Recommendation “under any standard [I] deem[] appropriate.” *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that “[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings”). Nonetheless, though not required to do so, I review the Recommendation to “satisfy [my]self that there is no clear error on the face of the record.”¹ See FED. R. CIV. P. 72(b) Advisory Committee Notes.

¹ Note, this standard of review is something less than a “clearly erroneous or contrary to law” standard of review, FED. R. CIV. P. 72(a), which in turn is less than a de novo review, FED. R. CIV. P. 72(b).

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Magistrate Judge Mix's Recommendation is thorough, well-reasoned and sound. I agree with Magistrate Judge Mix that the Citigroup Defendants, New Century Mortgage, and Castle should be dismissed from this matter for the reasons stated in both the Recommendation and this Order. Based on the foregoing, it is

ORDERED that the Recommendation of United States Magistrate Judge Mix [ECF No. 61] is **AFFIRMED** and **ADOPTED**. In accordance therewith, it is

FURTHER ORDERED that Defendants Citigroup Mortgage Loan Trust, Citigroup Mortgage Loan Trusts, New Century Mortgage, and Castle Stawiarski, LLC, should be **DISMISSED WITHOUT PREJUDICE** as parties from this action pursuant to Fed. R. Civ. P. 4(m).

Dated: November 8, 2012

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge