

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable R. Brooke Jackson

Civil Action No. 11-cv-03393-RBJ-KMT

TRISHA J. MUNHOLLAND and
BELLA HOMES, LLC,

Plaintiffs,

v.

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee for the certificateholders of
Structured Asset Mortgage Investments II Inc. Bear Stearns Mortgage Funding Trust 2007-AR5
Mortgage Pass-Through Certificates, Series 2007-AR5,
JPMORGAN CHASE BANK, NA.,
EMC MORTGAGE CORPORATION, and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS.

Defendants.

ORDER

This matter is before the Court on the February 25, 2013 Order and Recommendation of Magistrate Judge Kathleen M. Tafoya [docket #47]. As relevant here, the Recommendation addresses the Bank Defendants' Motion to Dismiss [#27]. The Recommendation is incorporated herein by reference. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation. However, no objection to Magistrate Judge Tafoya's Recommendation was filed by either party. "In the absence of timely objection, the district court may review a magistrate . . . [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *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”).

The Court has reviewed the relevant pleadings concerning the Recommendation. Based on this review, the Court concludes that the Magistrate Judge’s analyses and recommendations are correct, and that “there is no clear error on the face of the record.” Fed. R. Civ. P. 72 advisory committee’s note. Therefore, the Court ADOPTS the Recommendation of The United States Magistrate Judge as the findings and conclusions of this Court.

Accordingly, it is ORDERED that the Recommendation of the United States Magistrate Judge [#47] is AFFIRMED and ADOPTED. Bank Defendants’ Motion to Dismiss [#27] is GRANTED IN PART. Plaintiff’s third claim for relief alleging violations of the Federal Debt Collections Practices Act is dismissed with prejudice for failure to state a claim upon which relief can be granted. In the absence of federal question jurisdiction, the Court declines to exercise supplemental jurisdiction over plaintiff’s remaining state law claims and remands this case to the District Court for Douglas County, Colorado.

DATED this 18th day of March, 2013.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", written in a cursive style.

R. Brooke Jackson
United States District Judge