

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

Civil Action No. 12-cv-03107-REB-KLM

ROBERT J. DRISKELL,

Plaintiff,

v.

BRUCE R. THOMPSON, Chief Financial Officer (CFO), doing business as CFO Bruce R. Thompson Bank of America, N.A, and  
BANK OF AMERICA N.A., et al, and  
John Doe 1-100, successor by merger BAC Home Loans Serving, LP, formerly known as  
Countrywide Home Loans, LP,

Defendants.

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

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**Blackburn, J.**

The matter before me is the **Recommendation of United States Magistrate Judge** [#44],<sup>1</sup> filed August 21, 2013. No objection having been filed to the recommendation, I review it for plain error only. *See Morales-Fernandez v. Immigration & Naturalization Service*, 418 F.3d 1116, 1122 (10<sup>th</sup> Cir. 2005).<sup>2</sup> Finding no such error in the magistrate judge's recommended disposition, I find and conclude that the recommendation should be approved and adopted.

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

1. That the **Recommendation of United States Magistrate Judge** [#44], filed August 21, 2013, is **APPROVED AND ADOPTED** as an order of this court;

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<sup>1</sup> “[#44]” is an example of the convention I use to identify the docket number assigned to a specific paper by the court's electronic case filing and management system (CM/ECF). I use this convention throughout this order.

<sup>2</sup> This standard pertains even though plaintiff is proceeding *pro se* in this matter. *Morales-Fernandez*, 418 F.3d at 1122. In addition, because plaintiff is proceeding *pro se*, I have construed his pleadings 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)).

2. That **Defendant's Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(6)** [#21], filed January 3, 2013, is **GRANTED**;

3. That plaintiff's claims against defendant, Bank of America, N.A., alleging violations of the Fourth, Fifth, and Fourteenth Amendments, are **DISMISSED WITHOUT PREJUDICE**;

4. That plaintiff's claims against defendant, Bank of America, N.A., alleging fraud, violations of the Fair Debt Collection Practices Act, and violation of the Seventh Amendment, are **DISMISSED WITH PREJUDICE**;

5. That at the time judgment enters, judgment **SHALL ENTER** on behalf of defendant, Bank of America, N.A., against plaintiff, Robert J. Driskell; provided, that the judgment on plaintiff's claims arising under the Fourth, Fifth, and Fourteenth Amendments shall be without prejudice and that the judgment on plaintiff's claims alleging fraud, violation of the Fair Debt Collection Practices Act, and violation of the Seventh Amendment shall be with prejudice; and

6. That defendant, Bank of America, N.A., is **DROPPED** as a named party to this action, and the case caption **AMENDED** accordingly.

Dated September 10, 2013, at Denver, Colorado.

**BY THE COURT:**



Robert E. Blackburn  
United States District Judge