

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Raymond P. Moore**

Civil Action No. 14-cv-00567-RM-KLM

MICHAEL D. FLEMMING,

Plaintiff,

v.

WELLS FARGO HOME MORTGAGE,

Defendant.

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**ORDER ADOPTING  
ORDER AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE  
(ECF NO. 10)  
AND DISMISSING CASE WITH PREJUDICE**

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THIS MATTER is before the Court on the Order and Recommendation of United States Magistrate Judge (ECF No. 10) dated April 29, 2014, recommending Plaintiff's case be dismissed with prejudice as a sanction pursuant to Fed.R.Civ.P. 41(b). 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 days after being served with a copy of the Recommendation. (ECF No. 10, page 9.) The time permitted for any objections has expired and no objections to the Recommendation have been filed.

The Court has reviewed the Recommendation, Plaintiff's filings with the Court, the Magistrate Judge's prior Orders, other relevant portions of the file, and the applicable rules and case law. The Court has also considered the fact that Plaintiff did not object to the Recommendation that his case be dismissed with prejudice. In reviewing and considering this matter, the Court was mindful of the fact that Plaintiff appears *pro se* and of the factors to be considered before a dismissal with prejudice may

be warranted under Rule 41(b). *See Trackwell v. United States Gov't*, 472 F.3d 1242, 1243 (10<sup>th</sup> Cir. 2007); *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1162-1163 (10<sup>th</sup> Cir. 2007). Upon consideration of the foregoing, the Court concludes that the Magistrate Judge's analysis was thorough and sound, and that there is no clear error of law or abuse of discretion. *See* FED. R. CIV. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."); *see also Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) ("In the absence of timely objection, the district court may review a magistrate's report under any standard it deems appropriate.").

In accordance with the foregoing, the Court ORDERS as follows:

1. The Magistrate Judge's Order and Recommendation (ECF No. 10) is ADOPTED in its entirety as an order of this Court; and
2. The Plaintiff's complaint and all claims are DISMISSED WITH PREJUDICE.

DATED this 26th day of June, 2014.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Raymond P. Moore", written over a horizontal line.

RAYMOND P. MOORE  
United States District Judge