

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JAMES A. HEGEDUS, ET AL., :
: :
Plaintiffs, :
: :
v. : : Civil Action No. 12-25-LPS-MPT
: :
ROBERT L. ROSS, ET AL., :
: :
Defendants. :
:

MEMORANDUM ORDER

Pending before the Court is Plaintiffs' Motion to Vacate ("Motion") this Court's August 13, 2012 Order (D.I. 20) adopting the Report & Recommendation ("R&R"), issued by Magistrate Judge Thyng on July 12, 2002 (D.I. 17), granting Defendants' motions to dismiss (D.I. 6, 8).

Having reviewed the parties' filings relating to Plaintiffs' Motion (D.I. 21, 23, 24), IT IS HEREBY ORDERED THAT Plaintiffs' Motion (D.I. 21) is DENIED.

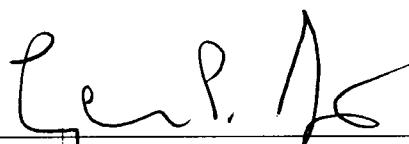
The Court adopted the R&R for two reasons: 1) its application of the law to the issues raised in the motions to dismiss; and 2) Plaintiffs did not timely object to the R&R. Nothing in Plaintiffs' Motion alters either of these grounds.

Plaintiffs make no effort to argue that the R&R's legal analysis is incorrect. Instead, they contend primarily that they did not receive a copy of the R&R. The Court understands that, consistent with the Court's ordinary practice, copies of the R&R were sent to Plaintiffs via U.S. Mail, at their address of record, just as copies of every other document docketed by the Court have been sent to them. The Court presumes that these materials placed in the mail were received at the address to which they were sent. *See generally In re Cendant Corp. Prides Litig.*, 311 F.3d 298, 304 (3d Cir. 2002). Therefore, Plaintiffs' claim that they did not receive the R&R

does not provide a reason that “justifies [the] relief” sought by Plaintiffs. Fed. R. Civ. P. 60(b)(6).

Plaintiffs’ additional allegations that Defendants engaged in improper *ex parte* contacts with Judge Thynge, and that Plaintiffs have been deprived of due process, lack any evidentiary basis. Plaintiffs’ contentions appear to rest on their belief that the Court did not mail the R&R to them. As explained above, the Court understands that the R&R was sent to Plaintiffs by U.S. mail to their address of record.

September 20, 2012



UNITED STATES DISTRICT JUDGE