

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOHN SIMON, JOAN SIMON, ANDREAS
KALLISTROS, KATHLEEN KALLISTROS,
NICHOLAS SERETIS, DESPINA SERETIS,
HARALAMPO KASOLAS, PALLIS
EVANGELLOS, ANASTASIA PALLIS, GLEN
DEASANTIS, LAWRENCE LODATO, MATHEW
BAILEY, ATHANASIA ZARKADAS, THEODORE
BATAGLIA, JEREMY BUTLER, FRANK
COPPINGER, VINCENT GALGANO, WILLIAM
MCCARTHY, JOEL SEVILLA, WILLIAM
WOODHULL, DIMITRIOS SERETIS

Plaintiffs/Counter-Defendants,

vs.

Case No. 2:09-cv-376-FtM-29DNF

NATIONAL CITY MORTGAGE COMPANY,
NATIONAL CITY BANK,

Defendants/Counter-Plaintiffs.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #135), filed April 15, 2011, recommending that Theodore Bataglia be dismissed and a default be entered against him on the Counterclaim. No objections have been filed and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review

factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge.

Accordingly, it is now


ORDERED:

1. The Report and Recommendation (Doc. #135) is hereby **adopted**.

2. The Clerk shall **terminate** Theodore Bataglia as a party-plaintiff in this case.

3. The Clerk is further **directed** to enter a default against Theodore Bataglia on the Counterclaim (Doc. #32, p. 16). Defendants shall seek a default judgment against this counter-plaintiff within **SIXTY (60) DAYS** of this Order.

DONE AND ORDERED at Fort Myers, Florida, this 6th day of May, 2011.



JOHN E. STEELE
United States District Judge

Copies:

Hon. Douglas N. Frazier
United States Magistrate Judge

Counsel of Record
Unrepresented parties