

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOSEPH R. KOSAKOWSKI, SUSAN
KOSAKOWSKI,

Plaintiffs,

vs.

Case No. 2:09-cv-803-FtM-29DNF

HOMES LOAN SERVICING, INC., First
Franklin Loan Services, Nanette
Stevens, Managing Director, FIRST
FRANKLIN NA, CEO Mark Malavos & CFO
Vona Scott, DEUTSCHE BANK NATIONAL
TRUST COMPANY, as Trustee FFMLT
Trust 2006-FF3,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #15), filed December 6, 2010, recommending that the action be dismissed without prejudice for failure to perfect service of process. 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. The case was originally filed on December 11, 2009, and has been pending for over a year now without service being executed on defendants, despite several orders to show cause and extensions of time, and having once reopened the matter after dismissal for failure to prosecute. In the September 8, 2010, Order, the undersigned clearly warned plaintiffs that the "Court will not provide any further extensions of time under any circumstances." (Doc. #12, p. 3) (emphasis in original). Subsequently, the Magistrate provided additional time to file proofs of service and forwarded summonses forms. Still, plaintiffs failed to take action.


Accordingly, it is now

ORDERED:

1. The Report and Recommendation is hereby **adopted** and the case is **dismissed** without prejudice for failure to perfect service of process.

2. The Clerk shall enter judgment accordingly, terminate all deadlines and motions as moot, and close the file.

DONE AND ORDERED at Fort Myers, Florida, this 3rd day of January, 2011.



JOHN E. STEELE
United States District Judge

Copies:
Hon. Douglas N. Frazier
United States Magistrate Judge

Counsel of Record
Unrepresented parties