

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

ADAM M. DILTS and RACHEL M.
DILTS,

Plaintiffs,

v.

Case No. 5:16-cv-453-Oc-37PRL

WELLS FARGO BANK, N.A.,

Defendant.

ORDER

This cause is before the Court on the following matters:

- (1) Defendant Wells Fargo Bank, N.A.'s *Renewed Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a)* (Doc. 35), filed October 7, 2016;
- (2) Wells Fargo Bank, N.A.'s *Notice of Filing Supplemental Declaration in Support of Renewed Motion to Transfer Venue* (Doc. 40), filed October 21, 2016;
- (3) Plaintiff's *Corrected/Amended Response in Opposition to Defendant's Renewed Motion to Transfer Venue* (Doc. 47), filed November 9, 2016;
- (4) *Report and Recommendation* (Doc. 52), filed December 20, 2016;
- (5) Wells Fargo Bank, N.A.'s *Objection to Magistrate Judge's Report and Recommendations* (Doc. 55), filed January 3, 2017; and
- (6) Plaintiff's *Response in Opposition to Defendant's Objection to Magistrate Judge's Report and Recommendations* (Doc. 74), filed February 7, 2017.

BACKGROUND

On December 20, 2016, U.S. Magistrate Philip R. Lammens (“**Judge Lammens**”) entered a Report and Recommendation (“**Report**”) advising the Court to deny Defendant Wells Fargo Bank, N.A.’s *Renewed* Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a) (Doc. 35 (“**Motion**”)). (See Doc. 52). Defendant filed objections to the Report (Doc. 55 (“**Objections**”)), Plaintiff responded (Doc. 74), and the matter is ripe for adjudication.

STANDARDS

Federal district court judges may designate magistrate judges to hear matters pending in a civil action for the purpose of submitting “proposed findings of fact and recommendations for the disposition” of such matters (“**R&Rs**”). See Fed. R. Civ. P. 72(b)(1). District court judges must review *de novo* “those portions” of Reports to which specific objection is made. See Fed. R. Civ. P. 72(b)(3). Upon review, district court judges may choose to further develop the evidentiary record, “return the matter to the magistrate judge with instructions,” or “accept, reject, or modify” such Reports. See 28 U.S.C. § 636(b)(1)(C); *see also Stephens v. Tolbert*, 471 F.3d 1173, 1176 (11th Cir. 2006).

DISCUSSION

According to Defendant, the Court should reject the Report and grant its Motion because the Report: (1) “fails to take into account that *no* material witness currently reside in Florida;” (2) “does not properly consider that Plaintiff’s choice of forum is accorded less deference where Plaintiffs themselves do not reside within the district;” (3) “fails to consider that *all* of the convenience factors in fact favor Oregon or are otherwise neutral;”

and (4) “glosses over the inextricable links between this action and the Oregon foreclosure action, making the District of Oregon more convenient for the parties.” (Doc. 55, p. 2.)

Upon *de novo* review of the record, the Court finds that Defendant’s objections are due to be overruled. In his thorough and well-reasoned Report, Judge Lammens carefully and properly addressed every argument raised in the Motion and every factor pertinent to a venue analysis under 28 U.S.C. § 1404(a). (See Doc. 52.) Although Defendant’s assertions concerning Plaintiff’s purported refusal to be deposed in this District were troublesome, such assertions were not before Judge Lammens when he issued the Report, and they have since been resolved by Plaintiffs’ assent to being deposed in this District. (See Doc. 78.) Accordingly, the Court finds that the Report is due to be adopted and the Motion is due to be denied.

CONCLUSIONS

It is hereby **ORDERED AND ADJUDGED** that:

- (1) Wells Fargo Bank, N.A.’s Objection to Magistrate Judge’s Report and Recommendations (Doc. 55) are **OVERRULED**.
- (2) The Report and Recommendation (Doc. 52) is **APPROVED and ADOPTED**.
- (3) Defendant Wells Fargo Bank, N.A.’s *Renewed* Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a) (Doc. 35) is **DENIED WITHOUT PREJUDICE**.

DONE AND ORDERED in Chambers in Orlando, Florida, on February 17, 2017.




ROY B. DALTON JR.
United States District Judge

Copies:

Counsel of Record