

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

STACEY PARKS,

Plaintiff,

v.

Case No: 6:13-cv-342-Orl-36KRS

FEDERAL DEPOSIT INSURANCE
CORPORATION,

Defendant.

ORDER

This cause comes before the Court on the Report and Recommendation of Magistrate Judge Karla R. Spaulding, filed on March 7, 2013 (Doc. 3). In the Report and Recommendation, the Magistrate Judge recommends that *pro se* Plaintiff Stacey Parks' ("Plaintiff") Motion for Leave to Proceed in *Forma Pauperis* ("Motion") (Doc. 2) be denied and Plaintiff's Motion to Vacate Foreclosure Judgment¹ ("Complaint") (Doc. 1) be dismissed for lack of subject matter jurisdiction due to a failure to demonstrate standing and failure to properly state a claim upon which relief can be granted. *See* Doc. 3. Neither party has objected to the Report and Recommendation and the time to do so has expired.

The Court is in agreement with the Magistrate Judge that Plaintiff's Motion should be denied and the Complaint should be dismissed because the Complaint fails to allege a sufficient basis for the exercise of this Court's subject matter jurisdiction, as Plaintiff fails to demonstrate that she has standing to bring the action and fails to properly state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2) (in proceedings *in forma pauperis*, the court shall

¹ Because Plaintiff's Motion to Vacate Foreclosure Judgment seeks to institute a federal lawsuit, the Court interprets and refers to it as a Complaint.

dismiss the case if, among other things, the case is frivolous or fails to state a claim upon which relief may be granted). However, based on the fact that Plaintiff is proceeding *pro se*, the Court agrees that Plaintiff should be given an opportunity to file an Amended Complaint. Therefore, after careful consideration of the Report and Recommendation of the Magistrate Judge, in conjunction with an independent examination of the court file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects.

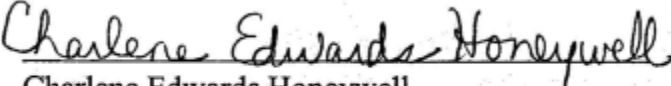
Accordingly, it is hereby **ORDERED and ADJUDGED**:

1. The Report and Recommendation of the Magistrate Judge (Doc. 3) is adopted, confirmed, and approved in all respects and is made a part of this Order for all purposes, including appellate review.
2. Plaintiff's Motion for Leave to Proceed in *Forma Pauperis* (Doc. 2) is **DENIED, without prejudice.**
3. Plaintiff's Motion to Vacate Foreclosure Judgment (Doc. 1) is **DISMISSED without prejudice.** Plaintiff is granted leave to file an Amended Complaint, accompanied by either payment of the filing fee or a completed application for leave to proceed in *forma pauperis*, within **FOURTEEN (14) DAYS** from the date of this Order.
4. To the extent that Plaintiff is making claims in her own name (and not on behalf of Merritt Properties Corporation), the Amended Complaint must establish that she has standing to bring such claims and must cure the deficiencies addressed in this Order and the Report and Recommendation. To the extent that Plaintiff is

making claims on behalf of Merritt Properties Corporation, she is granted leave to amend such claims only if Merritt Properties Corporation appears by counsel.

5. Failure to file an Amended Complaint within the time provided may result in this case being closed.

DONE and **ORDERED** in Orlando, Florida on March 28, 2013.


Charlene Edwards Honeywell
United States District Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties
United States Magistrate Judge Karla R. Spaulding