

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CECILIO MARTY-BEY, DORIS A.
MARTY-BEY, and AL'MAURI KHAN
NATION, Indian Country, America,

Plaintiffs,

v.

Case No: 8:17-cv-349-T-17TBM

U.S. BANK TRUST, N.A., as Trustee for
LSF9 Master Participation Trust and
OCWEN LOAN SERVICING LLC,

Defendants.

ORDER

This cause comes before the Court pursuant to the *Report and Recommendation* (Doc. No. 6) (the “**R&R**”) entered by United States Magistrate Judge Thomas B. McCoun, III on April 4, 2017. Pursuant to the R&R, the Magistrate Judge recommends that the motion for leave to proceed *in forma pauperis* (Doc. No. 3) (the “**IFP Motion**”) filed by the Plaintiffs be denied, and that the case be dismissed and remanded to state court for all further proceedings. For the reasons set forth below, the R&R is **ADOPTED AND INCORPORATED BY REFERENCE**.

I. Background

The Plaintiffs commenced this case by filing a “Notice of Removal,” along with the IFP Motion, on February 13, 2017. Through the foregoing, the Plaintiffs appear to seek review of a state court foreclosure action pending in the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida. Magistrate McCoun reviewed the “Notice of Removal,” the IFP Motion, and the docket in the state court action, and determined that

the case should be remanded to state court for lack of jurisdiction. As of the entry of this order, the Plaintiffs have not responded to the R&R.

II. Discussion

Under the Federal Magistrate's Act (the "**Act**"), Congress vested Article III judges with the power to "designate a magistrate judge to hear and determine any pretrial matter pending before the court," subject to various exceptions. 28 U.S.C. § 636(b)(1)(A). The Act further vests magistrate judges with authority to "submit to the judge of the court proposed findings of fact and recommendations for the disposition" by an Article III judge. 28 U.S.C. § 636(b)(1)(B). "Within fourteen days after being served with a copy [of a magistrate's report and recommendation], any party may serve and file written objections to such proposed findings and recommendations." 28 U.S.C. § 636(b)(1). On review by the district court, "the court shall make a de novo determination of those portions of the report . . . to which objection is made." *Id.* When no timely and specific objections are filed, case law indicates the court should review the findings using a clearly erroneous standard. *Gropp v. United Airlines, Inc.*, 817 F.Supp. 1558, 1562 (M.D. Fla. 1993). Here, the Plaintiffs failed to object to the R&R within the time permitted and, as a result, the Court deems the R&R to be unopposed. Upon due consideration, the Court concurs with the R&R.

III. Conclusion


Accordingly, it is

ORDERED that the R&R is **ADOPTED AND INCORPORATED BY REFERENCE**. The IFP Motion is **DENIED**. The Clerk of Court is directed to **REMAND** this case to state court by sending a certified copy of this order to the Clerk of Court for the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida.

Order in Case No. 8:17-cv-00349-EAK-TBM

It is further **ORDERED** that the Clerk of Court is directed to **CLOSE** this case, and **TERMINATE** any pending motions.

DONE and **ORDERED** in Chambers, in Tampa, Florida this 24th day of April, 2017.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties