

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

NATIONSTAR MORTGAGE, LLC,

Plaintiff,

v.

Case No. 3:14cv494/MCR/CJK

TONA M. DeMERS;

Defendant,

v.

OCWEN LOAN SERVICING, LLC,

Counter-defendant.

ORDER

Pending before the Court is the Magistrate Judge's Report and Recommendation dated April 29, 2015 (doc. 21). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). The Court has made a de novo determination of the timely filed objections (doc. 22). The objections are based on Defendant Demers's disagreement with the Magistrate Judge's determination of the facts. Because the record reflects that DeMers was on notice that the state court had granted a motion to amend the complaint at least by May 29, 2014,¹ the removability of the case was ascertainable at that time, and removing the case on September 19, 2014, was well outside the thirty-day window for timely removal. Additionally, the Court agrees with the Magistrate Judge's

¹ In an email DeMers drafted, she acknowledged she had received the state court's order allowing the amendment as of "late May" 2014, and on June 16, 2014, she filed a motion in the state court confirming that she had received the order granting leave to amend on May 29, 2014.

determination that the removal is also barred by the one-year rule because the state court complaint was originally filed in January 2010, and no bad faith has been shown. Therefore, the objections are overruled and the Report and Recommendation is due to be adopted.

Accordingly, it is now **ORDERED** as follows:

1. The Magistrate Judge's Report and Recommendation is adopted and incorporated by reference in this Order.

2. Plaintiff's Motion to Remand (doc. 5) is **GRANTED** and this matter is hereby remanded to the state court from which it was removed.

3. The Clerk of Court is directed to close the file.

DONE AND ORDERED this 16th day of July, 2015.

sl M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE