

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ROBERT LIGON and	:	
KADIJI TOWNSEND,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION NO.
v.	:	1:11-CV-3811-RWS
	:	
BAC HOME LOANS	:	
SERVICING LP, a/k/a	:	
Bank of America, N.A., a/k/a	:	
Bank of America, N.A.	:	
Corporation,	:	
	:	
Defendant.	:	

ORDER

This case is before the Court for consideration of the Report and Recommendation (“R&R”) [20] of Magistrate Judge Janet F. King. Defendant and Plaintiffs have filed Objections [22 and 25] to the R&R. After reviewing the record, the Court enters the following Order.

In the R&R, Judge King noted that Plaintiffs appeared to have alleged a claim for wrongful foreclosure and found that if a foreclosure has occurred, Plaintiffs may be able to state a claim for wrongful foreclosure. (R&R at 30-

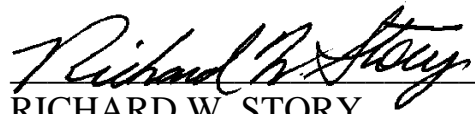
31.) Accordingly, Judge King recommended that Defendant's Motion to Dismiss be denied as to the claim for wrongful foreclosure. In its Objections, Defendant objects to the recommendation because it asserts that no foreclosure occurred. (Def.'s Objs. at 3.) In fact, in their Objections, Plaintiffs acknowledge that they are not making a claim based on foreclosure. (Pls.' Objs. at 2.) Therefore, Defendant's objection to the recommendation is **SUSTAINED**. Because a foreclosure has not occurred, Plaintiffs may not maintain a claim for wrongful foreclosure. Caselli v. PHH Mortg. Corp., 2012 U.S. Dist. LEXIS 4949, at *16 (N.D. Ga. Jan. 13, 2012). Therefore, the Motion to Dismiss is due to be granted as to any claim for wrongful foreclosure.

Defendant also objects to the failure to recommend dismissal of Plaintiffs' putative class action claims because all of Plaintiffs' substantive claims are being dismissed and Plaintiffs may not assert a *pro se* class action. In light of the Court's ruling regarding the wrongful foreclosure claim, the Court agrees that all of Plaintiffs' substantive claims have been dismissed, and therefore, the class action should also be dismissed. Further, *pro se* litigants are not permitted to represent a class. Wallace v. Smith, 145 F.App'x. 300, 302 (11th Cir. 2005). Thus, the class action claim is subject to dismissal on this ground as well.

The Court has considered the Objections filed by Defendants. However, the Court finds that the R&R sufficiently addresses the issues raised by Plaintiffs.

With the exceptions noted above, the Report and Recommendation is received with approval and adopted as the Opinion and Order of this Court. Accordingly, Plaintiffs' Motion for Summary Judgment [3] is **DENIED, AS MOOT**; Defendant's Motion to Dismiss [7] is **GRANTED**. The Clerk shall close the case.

SO ORDERED, this 25th day of September, 2012.



RICHARD W. STORY
UNITED STATES DISTRICT JUDGE