

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ERIC L. ANDERSON and CHRISTINE
T. ANDERSON, et al.,

Plaintiff,

v.

DEUTSCHE BANK TRUST
COMPANY AMERICAS, et al.,

Defendants.

Case No. 1:11-CV-00231-EJL-REB

**ORDER ON REPORT AND
RECOMMENDATION**

On June 5, 2012, United States Magistrate Judge Ronald E. Bush issued a Report and Recommendation, recommending that Defendants' Motion to Dismiss be granted in part and denied in part. (Dkt. 21.) Any party may challenge a magistrate judge's proposed recommendation regarding by filing written objections within ten days after being served with a copy of the magistrate's Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). The district court must then "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* The district court may accept, reject, or modify in whole or in part, the findings and recommendations

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made by the magistrate. *Id.*; *see also* Fed. R. Civ. P. 72(b). Neither side has filed objections to the report and recommendation. The Court has therefore reviewed the Report and Recommendation in light of the parties briefing on the Motion and finds that the Magistrate Judge identified the correct legal standards and properly applied those standards to the record. (Dkt. 21.)

ORDER

Having conducted a *de novo* review of the Report and Recommendation, this Court finds that Magistrate Judge Bush's Report and Recommendation is well founded in law and consistent with this Court's own view of the evidence in the record. Acting on the recommendation of Magistrate Judge Bush, and this Court being fully advised in the premises, **IT IS HEREBY ORDERED** that the Report and Recommendation entered on June 5, 2012, (Dkt. 21), should be, and is hereby, **INCORPORATED** by reference and **ADOPTED** in its entirety and **THEREFORE IT IS HEREBY ORDERED** that Defendants' Motion to Dismiss (Dkt. 6) is **GRANTED in part and DENIED in part** as follows.

- 1) Plaintiffs' claims for unjust enrichment, Fair Debt Collection Practices Act violations, and negligence are all dismissed without prejudice.
- 2) Plaintiffs' claims for quiet title, declaratory relief, and injunctive relief are not dismissed.

- 3) Pursuant to Local Rule 16.1, the parties shall meet and determine a joint litigation plan¹ and if the case is suitable for an alternative dispute resolution (ADR) program such as arbitration, mediation² or judicial settlement conference.
- 4) On or before **July 18, 2012**, the parties shall file with the court the a joint litigation plan.



DATED: **July 2, 2012**

A handwritten signature in black ink that reads "Edward J. Lodge". The signature is written in a cursive, flowing style.

Honorable Edward J. Lodge
U. S. District Judge

¹The litigation plan form can be found at http://www.id.uscourts.gov/forms-dc/LITPLAN_ejl.pdf.

²Pursuant to Local Rule 16.5, the parties shall discuss and determine whether or not they will participate in a mediation program. Mediation is a process whereby a trained, experienced and impartial neutral, selected by the parties and or the Court, will facilitate discussion, and assist in identifying issues and generating options in an attempt to resolve the dispute which prompted the litigation.

A party can move for withdrawal from the mediation process upon a showing that reasons exist as to why mediation would not be productive or otherwise should not occur.