

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS**

KEOKUK JUNCTION RAILWAY	)
COMPANY,	)
	)
Plaintiff,	)
	)
v.	)
	)
TOLEDO, PEORIA & WESTERN	)
RAILWAY CORP.,	)
	)
Defendant.	)

Case No. 11-1139

**ORDER**

On August 22, 2011, a Report & Recommendation was filed by Magistrate Judge Byron G. Cudmore in the above captioned case. More than ten (10) days have elapsed since the filing of the Report & Recommendation, and no objections have been made. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); Lockert v. Faulkner, 843 F.2d 1015 (7<sup>th</sup> Cir. 1988); and Video Views, Inc. v. Studio 21, Ltd., 797 F.2d 538, 539 (7<sup>th</sup> Cir. 1986). As the parties failed to present timely objections, any such objections have been waived. Id.

The relevant procedural history is sufficiently set forth in the comprehensive Report & Recommendation of the Magistrate Judge. Suffice it to say that Plaintiff has brought this litigation alleging that Defendant, Toledo, Peoria & Western Railway (“TP&W”), failed to comply with its obligation to deliver a quitclaim deed and other records following the closing on the sale of a rail line to Plaintiff, Keokuk Junction Railway Co. (“KJRC”). TP&W moved to dismiss the Complaint, arguing that KJRC’s claim is barred by the four-year federal catch-all statute of limitations, 28 U.S.C. § 1658(a). The Court concurs with the Magistrate Judge’s detailed discussion and

recommendation that TP&W has misconstrued the applicable statute of limitations and that the claim is timely under Illinois' five-year catch-all statute, 735 ILCS 5/13-205.

Accordingly, the Court now adopts the Report & Recommendation [#10] of the Magistrate Judge in its entirety. Defendant's Motion to Dismiss [#8] is DENIED. TP&W is directed to answer the Complaint within 21 days of this Order, and this matter is again REFERRED to Magistrate Judge Cudmore for further proceedings.

ENTERED this 14<sup>th</sup> day of September, 2011.

s/ James E. Shadid  
James E. Shadid  
United States District Judge