

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JASON OSANTOWSKI,
CATHERINE OSANTOWSKI,

Plaintiffs,

v.

Case Number 09-12079-BC
Honorable Thomas L. Ludington

OPTION ONE MORTGAGE CO.,

Defendant,

EARL SAGEMAN,

Third-Party Plaintiff.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS' MOTION TO DISMISS AND FOR SUMMARY JUDGMENT, AND
DISMISSING COMPLAINT WITH PREJUDICE**

Plaintiffs Jason and Catherine Osantowski filed a complaint against Defendant Option One Mortgage Co. on May 29, 2009, alleging claims arising out of the circumstances surrounding a mortgage loan. Earl Sageman was also designated as a “third-party plaintiff” in the complaint. Plaintiffs allege, inter alia, violations of the federal Truth in Lending Act (“TILA”), 15 U.S.C. § 1601 et seq., and the usury statute, 12 U.S.C. § 86.

Now before the Court is a report and recommendation issued by Magistrate Judge Charles E. Binder on November 4, 2009. The magistrate judge recommends that the Court grant Defendant Option One Mortgage Co.’s motion to dismiss and for summary judgment in its entirety. The magistrate judge recommends that Defendant is entitled to summary judgment on Plaintiffs’ TILA claims based on the statute of limitations, and on Plaintiffs’ usury claims based on both the merits and statute of limitations. The magistrate judge also recommends that Defendant is entitled to

dismissal of Plaintiffs' remaining claims because they are mere assertions of legal conclusions unsupported by factual allegations. Finally, the magistrate judge recommends dismissing "third-party Plaintiff" Sageman's claims on the same grounds, to the extent that he is a party to the lawsuit. To the extent that he is not a party to the lawsuit, the Court does not have jurisdiction over his claims.

As of today's date, no party has filed any objections to the magistrate judge's report and recommendation. The failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [Dkt # 13] is **ADOPTED**.

It is further **ORDERED** that Defendant's motion to dismiss and for summary judgment [Dkt. # 10] is **GRANTED** and that Plaintiffs' complaint [Dkt. # 1] is **DISMISSED WITH PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: December 4, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 4, 2009.

s/Tracy A. Jacobs
TRACY A. JACOBS