

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

THOMAS R. KOZAK, THOMAS S. KOZAK,

Plaintiffs,

v.

LAKE STATE RAILWAY COMPANY,
STRAITS CORPORATION, SAGINAW
MIDLAND MUNICIPAL WATER SUPPLY
CORPORATION, WILLIAM F. BARTLETT,

Defendants.

Case Number 09-14695-BC
Honorable Thomas L. Ludington
Magistrate Judge Charles E. Binder

ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING AS MOOT SAGINAW MIDLAND MUNICIPAL WATER SUPPLY CORPORATION'S MOTION TO DISMISS [DKT. # 4], GRANTING LAKE STATE RAILWAY COMPANY'S, WILLIAM F. BARTLETT AND STRAITS CORPORATION'S, AND SAGINAW MIDLAND MUNICIPAL WATER SUPPLY CORPORATION'S MOTIONS TO DISMISS [DKT. # 9, 19, 24], DISMISSING PLAINTIFFS' FEDERAL CLAIMS AGAINST THESE DEFENDANTS WITH PREJUDICE, AND DECLINING JURISDICTION OVER PLAINTIFFS' STATE LAW CLAIMS

This matter is before the Court on a report and recommendation issued by Magistrate Judge Charles E. Binder on June 15, 2010. Judge Binder recommends that the Court grant Defendants Lake State Railway Company's, Straits Corporation and William F. Bartlett's, and Saginaw Midland Municipal Water Supply Corporation's motions to dismiss [Dkt. # 9, 19, 24] because Plaintiffs' federal claims are barred by a three-year statute of limitations. In light of that recommendation, Judge Binder also recommends that Defendant Saginaw Midland Municipal Water Supply Corporation's motion to dismiss [Dkt. # 4] for improper service of process be denied as moot. As of today's date, no party has filed any objections to Judge Binder's report and recommendation. The decision to not object to the Judge Binder'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 report and recommendation [Dkt # 29] is **ADOPTED**.

It is further **ORDERED** that Defendants Lake State Railway Company's, Straits Corporation and William F. Bartlett's, and Saginaw Midland Municipal Water Supply Corporation's motions to dismiss [Dkt. # 9, 19, 24] are **GRANTED**.

It is further **ORDERED** that Defendant Saginaw Midland Municipal Water Supply Corporation's motion to dismiss [Dkt. # 4] is **DENIED AS MOOT**.

It is further **ORDERED** that Plaintiffs' federal claims against Defendants Lake State Railway Company, Straits Corporation, William F. Bartlett, and Saginaw Midland Municipal Water Supply Corporation are **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that jurisdiction is **DECLINED** over Plaintiffs' state law claims.

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

Dated: July 13, 2010

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 July 13, 2010.

s/Tracy A. Jacobs
TRACY A. JACOBS