UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

TAMIKA SCHMIDT,

Plaintiff,

v

PENNYMAC LOAN SERVICES, LLC, and BANK OF AMERICA, NA,

Defendant.

_____/

Case No. 14-cv-14728

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING DEFENDANT PENNYMAC'S MOTION TO DISMISS, DENYING DEFENDANT BANK OF AMERICA'S MOTION TO DISMISS, AND REMANDING THE CASE TO THE SAGINAW COUNTY CIRCUIT COURT

On October 9, 2014, Plaintiff Tamika Schmidt filed suit against Defendants PennyMac Loan Services, LLC, and Bank of America, NA in connection with the foreclosure of her residence. Specifically, Schmidt claimed that PennyMac violated Regulation X's continuity of contract requirements, 12 C.F.R. § 1024.40 promulgated by the Consumer Financial Protection Bureau and that Bank of America committed the state law tort of silent fraud. PennyMac removed the case to this Court citing federal question jurisdiction.

On January 12, 2015, each Defendant filed a motion to dismiss Schmidt's claim against them. On May 1, 2015, Magistrate Judge Patricia T. Morris issued a report recommending that Defendant PennyMac's motion to dismiss be granted because Regulation X did not provide a private right of action. And because the alleged violation of Regulation X was the sole basis for federal jurisdiction, Judge Morris recommended denying Defendant Bank of America's motion to dismiss the state law claim and remanding the claim to the Saginaw County Circuit Court.

Although Magistrate Judge Morris's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendants filed any objections. The election not to file objections 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). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation (ECF No. 19) is **ADOPTED**.

It is further **ORDERED** that Defendant PennyMac's motion to dismiss (ECF No. 8) is **GRANTED**.

It is further **ORDERED** that Defendant Bank of America's motion to dismiss (ECF No. 9) is **DENIED WITHOUT PREJUDICE**.

It is further **ORDERED** that this case is **REMANDED** to the Saginaw County Circuit Court.

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

Dated: May 20, 2015

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 May 20, 2015.

s/Karri Sandusky
Karri Sandusky, Acting Case Manager