

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CLEVELAND M. GAYLE, JR.,

Plaintiff,

HONORABLE VICTORIA A. ROBERTS  
Case No. 12-cv-12489

Magistrate Judge Michael J. Hluchaniuk

v.

ARBOR MORTGAGE CORPORATION,  
IVAN KAUFMAN, CITIMORTGAGE, INC.,  
SANJIV DAS, PAUL INCE, DANIEL  
HOFFMAN, MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, R.K.  
ARNOLD, BILL HUFFMAN, POTESIVO  
ASSOCIATES, CHANTELE R.  
NEUMANN, SCHNELKER, RASSI &  
MCCONNELL, PLC, JASON S.  
SCHNELKER, D.WADE MCCONNELL,  
DYKEMA GOSSETT PLLC, KYLE R.  
DUFRANE, NASSEEM S. RAMIN,  
MICHAELWOODS, et al.,

Defendants.

**ORDER ACCEPTING REPORT AND RECOMMENDATION THAT DEFENDANTS'  
MOTIONS TO DISMISS BE DENIED AS MOOT (Docs. #13 and #14)**

**I. INTRODUCTION**

Before the Court are Defendants' motions to dismiss for failure to state a claim. Plaintiff filed this *pro se* complaint alleging that he was fraudulently induced into his mortgage loan. However, Plaintiff filed an earlier claim, *Gayle v. Arbor Mortg. Corp.*, Case No. 12-10898. This case arises out of the same transactions and alleges similar claims against the same defendants as the earlier claims. But, in this action, Plaintiff also sues Defendants' attorneys.

On June 12, 2012, the Court referred this matter to Magistrate Judge Michael J. Hluchaniuk pursuant to 28 U.S.C. § 636(b)(1)(B). On January 16, 2013, the Magistrate Judge filed his Report and Recommendation denying Defendants' motions and dismissing Plaintiff's claim as moot. Plaintiff objected.

This Court reviews *de novo* any part of the Magistrate Judge's Report and Recommendation on a dispositive motion that is properly objected to. 28 U.S.C. § 636(b)(1). After careful review of the entire record, the Court agrees with the Magistrate Judge's conclusions. The Magistrate Judge's Report and Recommendation is thorough; it lays out the facts and procedural history of the case, as well as the relevant case law. He denies Defendants' motions with a reasoned explanation. Particularly, he correctly finds that the addition of defense counsel as defendants is not a sufficient bases to allow this case to move forward, when the Court believes Plaintiff continues to fail to state a claim.

The Court **ACCEPTS** Magistrate Judge Michael J. Hluchaniuk's Report and Recommendation. Defendants' motions to dismiss are **DENIED** as moot; Plaintiff's claims are *sua sponte* **DISMISSED**.

**IT IS ORDERED.**

**S/Victoria A. Roberts**  
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**Victoria A. Roberts**  
**United States District Judge**

**Dated: February 26, 2013**

The undersigned certifies that a copy of this document was served on the attorneys of record and Cleveland M. Gayle Jr. by electronic means or U.S. Mail on February 26, 2013.

S/Carol A. Pinegar \_\_\_\_\_  
Deputy Clerk