

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DeShawn Evans and Benita Evans,

Plaintiffs,

v.

Case No. 12-12794

United States of America,

Honorable Sean F. Cox

Defendant.

ORDER
ACCEPTING AND ADOPTING REPORT & RECOMMENDATION

Plaintiffs brought this action against the United States pursuant to the Federal Tort Claims Act, alleging that Customs and Border Patrol Agent Justin McCormack (“McCormack”) negligently operated his government vehicle, thereby losing control, sliding into Plaintiffs’ vehicle, and causing them to sustain injuries.

Some time thereafter, Defendant filed a Motion For Failure to Prosecute or, in the alternative, For Sanctions (Doc. #14). This Court referred Defendants’ motion to Magistrate Judge Michael J. Hluchaniuk for Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). (Doc. #16).

In a Report and Recommendation (“R&R”) issued on October 1, 2013, Magistrate Judge Hluchaniuk recommended that this Court deny Defendant’s motion to dismiss but grant Defendant’s motion for sanctions due to Plaintiffs’ cancellation of an expert medical examination appointment. (Doc. #37).

Pursuant to FED. R. CIV. P. 72(b), a party objecting to the recommended disposition of a matter by a Magistrate Judge must file objections to the R&R within fourteen (14) days after being

served with a copy of the R&R. “The district judge to whom the case is assigned shall make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge’s disposition to which specific written objection has been made.” *Id.*

The time for filing objections to the R&R has expired and the docket reflects that neither party has filed objections to the R&R. Plaintiffs timely filed a Motion to Strike the Expert Examination Fees as Excessive, which was referred to Magistrate Judge Hluchaniuk for a Report and Recommendation. An R&R on Plaintiff’s Motion to Strike is still forthcoming.

The Court hereby ADOPTS the October 1, 2013 R&R. IT IS ORDERED that Defendant’s Motion to Dismiss is DENIED, but Defendant’s Motion for Sanctions is GRANTED.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: December 19, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 19, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy
Case Manager