

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NANCY LNU, NANCY J. GARDNER, and  
DONALD M. GARDNER,

Plaintiff,

vs.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION, et al.,

Defendants.

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Case No. 15-12900

HON. AVERN COHN

**ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 29)**  
**AND**  
**GRANTING DEFENDANTS' MOTION TO DISMISS (Docs. 10)**  
**AND DISMISSING CASE**

I.

This is essentially a mortgage foreclosure case. In August of 2015, plaintiffs, who identify themselves as “Agent Nancy on behalf of Nancy J. Gardner and Don on behalf of Donald M. Gardner,” filed a pro se civil complaint concerning real property that was previously foreclosed on under Michigan law, sold at a Sheriff’s sale, and transferred to defendant Federal National Mortgage Association (Fannie Mae). The matter was referred to a magistrate judge for pretrial proceedings. See Doc. 6. Defendants Fannie Mae and Positive & Associates filed a motion to dismiss, requesting that the complaint be dismissed and they be awarded costs and attorney fees under Rule 11. (Doc. 10). The magistrate judge issued a report and recommendation (MJRR), recommending that defendants’ motion to dismiss be granted but defendant’s

request for costs and attorney fees be denied. (Doc. 29).<sup>1</sup>

II.

Neither party has objected to the MJRR and the time for filing objections has passed. The failure to file objections to the MJRR waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the MJRR releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge's analysis and conclusion.

III.

Accordingly, for the reasons stated above, the MJRR is ADOPTED as the findings and conclusions of the Court. Defendants' motion to dismiss is GRANTED. The request for costs and attorney fees is DENIED. This case is DISMISSED.

SO ORDERED.

S/Avern Cohn  
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AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: September 16, 2016  
Detroit, Michigan

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<sup>1</sup>The magistrate judge also recommends that plaintiff be enjoined from filing further actions without leave of court, citing plaintiff's extensive litigation history in state and federal court challenging the foreclosure. See MJRR at p. 2-4. Although imposing pre-filing restrictions on persons with a history of repetitive or vexatious litigation is permitted, see Feathers v. Chevron, U.S.A., Inc., 141 F.3d 264, 269 (6<sup>th</sup> Cir. 1998), the Court declines to impose pre-filing requirements at this time. However, plaintiff is on notice that any future litigation filed in this court regarding the foreclosure may result in the imposition of pre-filing requirements.