UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

MAURINE JONES and PRECIOUS
JONES,

Plaintiffs,

Case No. 1:13-cv-979

HON. JANET T. NEFF

 \mathbf{v}

THE BANK OF NEW YORK MELLON TRUST CO., N.A., et al.,

OPINION AND ORDER

Plaintiffs, proceeding *pro se*, initiated the present action against the Bank of New York Mellon Trust Company, N.A. and two individuals, by filing a "Notice of Appeal" (Dkt 1). Plaintiffs indicated they "request an Appeal because they were not given the opportunity to present or defend their case in a hearing or trial" (*id.* at 2). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court dismiss the action for lack of subject matter jurisdiction. The matter is presently before the Court on Plaintiffs' Objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objection has been made. The Court denies the objection and issues this Opinion and Order. Further, this Court will enter a Judgment consistent with this Opinion and Order. See FED. R. CIV. P. 58.

The Magistrate Judge determined that this Court is precluded from hearing Plaintiffs' appeal

of a ruling entered by a state court in a separate matter (R&R, Dkt 4 at 2, citing Exxon Mobile Corp.

v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005); Durham v. Haslam, 528 F. App'x 559, 563

(6th Cir. 2013)). Plaintiffs object to the Magistrate Judge's recommendation, arguing that they do

not seek to appeal the district court ruling or have the Court modify or reverse the district court

decision; rather, Plaintiffs contend that they are "filing this Complaint under the Fair Debt

Collections Practices Act (FDCPA)" and "under U.S. Cont [sic], Art III Sec 2 cl. 1. Lack of

Standing" (Objs., Dkt 5 at 2-3).

Plaintiffs' current intentions notwithstanding, jurisdiction is decided at the onset of litigation.

"The relevant question is, whether on the face of a plaintiff's well-pleaded complaint, 'a state-law

claim necessarily raise[s] a stated federal issue, actually disputed and substantial, which a federal

forum may entertain without disturbing any congressionally approved balance of federal and state

judicial responsibilities." Walbridge Aldinger Co. v. City of Detroit, 296 F. App'x 527, 532 (6th Cir.

2008) (quoting Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg., 545 U.S. 308, 315

(2005)). "Jurisdiction may not be sustained on a theory that the plaintiff has not advanced." Merrell

Dow Pharm., Inc. v. Thompson, 478 U.S. 804, 809, n.6 (1986). Therefore, the Court agrees with the

Magistrate Judge that the subject matter of the action Plaintiffs initiated is one over which this Court

lacks jurisdiction or authority to hear. Plaintiffs' objection must therefore be denied. Accordingly:

IT IS HEREBY ORDERED that the Objection (Dkt 5) is DENIED, and the Report and

Recommendation (Dkt 4) is APPROVED and ADOPTED as the Opinion of the Court.

Dated: July 17, 2014

/s/ Janet T. Neff

United States District Judge

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