

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES HARKEN,  
Plaintiff,

v.

CITY OF LANSING,  
Defendant.

Case No.: 1:16-cv-1018

HONORABLE PAUL L. MALONEY

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by United States Magistrate Judge Phillip J. Green in this action (ECF No. 45). The Report and Recommendation was duly served on the parties. No objections have been filed.

The Magistrate Judge recommended dismissal under Fed. R. Civ. P. 12(b)(6). However, since the pleadings were closed, *see* Fed. R. Civ. P. 7(a), 12(c), *sua sponte* dismissal at this stage is proper under Fed. R. Civ. P. 12(c). *See, e.g., Flora v. Home Fed. Sav. and Loan Ass'n*, 685 F.2d 209, 211-12 ("[A]fter the pleadings are closed . . . [a] *sua sponte* dismissal for failure to state a claim [under Fed. R. Civ. P. 12(c)] is justified if there is a sufficient basis for the court's action apparent from the pleadings.").

ACCORDINGLY, the Report and Recommendation is hereby adopted as the opinion of the Court. **THEREFORE, IT IS ORDERED** that pursuant to Fed. R. Civ. P. 12(c), Plaintiff's complaint is DISMISSED for failure to state a claim upon which relief can be granted. This action is terminated.

Dated: March 24, 2017

/s/ Paul L. Maloney

Paul L. Maloney

United States District Judge