

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL R. HALLIDAY, et al.,

Plaintiff,

File no: 1:18-CV-44

v.

HON. ROBERT J. JONKER

STEPHEN SMITH, et al.,

Defendants.

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**ORDER APPROVING MAGISTRATE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on September 3, 2018 (ECF No. 36). The Report and Recommendation was duly served on the parties. No objections have been filed under 28 U.S.C. § 636(b)(1)(C). Plaintiffs filed a motion to amend complaint without any statement of what the basis for amendment would be. (ECF No. 40). The period for leave to amend as a matter of course has expired; no defendant has consented to a proposed amendment; and the Court finds no basis to grant leave to amend. FED. R. CIV. P. 15(a).

ACCORDINGLY, IT IS ORDERED that the Motion for Leave to Amend (ECF No. 40) is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 36) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiffs' claims against unserved defendants Stephen Smith and "20 JOHN and JANE DOES" are **DISMISSED** under Rule 4(m) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that Plaintiffs' claims for damages against Michigan's Secretary of State Ruth Johnson in her official capacity are barred by Eleventh Amendment immunity and are **DISMISSED**.

IT IS FURTHER ORDERED that the Rule 12(b)(1) motion to dismiss by the Comptroller of Currency Otting and Securities and Exchange Commissioner Clayton (ECF No. 28) is **GRANTED**, and all claims against these defendants are dismissed for lack of jurisdiction. The Rule 12(b)(6) motion by these defendants (ECF No. 28) is **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that the motions to dismiss filed by defendants Fraser, Beckman, Schneiderman & Sherman, Michigan's Secretary of State Ruth Johnson, CitiMortgage, and MERS (ECF Nos. 12, 15, 17) are **GRANTED**, and these defendants are dismissed.

This case shall proceed as to defendant Sheriff Stephen Kempker only.

Date: September 27, 2018

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE