

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL R. HALLIDAY and
BEVERLY E. HALLIDAY,

Plaintiffs,

CASE NO. 1:18-CV-44

v.

HON. ROBERT J. JONKER

JANE FRASE, *et al.*,

Defendants.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Green's Report and Recommendation in this matter (ECF No. 42). The Report and Recommendation covers the same ground as the Report and Recommendation the Court adopted earlier (ECF Nos. 36, 41), except that it focuses on moving Defendant Kempker. The Magistrate Judge recommends that the Court grant Defendant Kempker's Motion to Dismiss (ECF No. 37). The Report and Recommendation was duly served on the parties. No proper objections have been filed under 28 U.S.C. § 636(b)(1)(C), and the deadline for objection has passed. Accordingly, the Court **approves and adopts the Report and Recommendation** as the opinion of the Court.

Plaintiffs did file an Amended Complaint (ECF No. 43). The Court had earlier denied leave to file an amended complaint because Plaintiffs provided no basis for or explanation of the proposed amendment. Plaintiffs still have not done so. The Court **strikes** the Amended Complaint as improvidently filed.

The Amended Complaint was docketed as objections to the Report and Recommendation, because Plaintiffs apparently insisted that the docket clerk describe the filing that way. The description does not change the reality that the filing is not a proper objection to the Report and Recommendation.¹ Moreover, it does not change the original allegations in a way that would change the outcome anyway. Fundamentally, Plaintiffs suffered a mortgage foreclosure because they stopped paying on the loan and went into default. That basic fact is not in dispute. The distorted legal objections Plaintiffs attempt to articulate fail to state an actionable legal claim for the relief they seek.

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge (ECF No. 42) is **APPROVED AND ADOPTED** as the opinion of the Court.

2. Defendant Kempker's Motion to Dismiss (ECF No. 37) is **GRANTED**.

3. The Clerk of the Court shall **STRIKE** Plaintiffs' proposed Amended Complaint (ECF No. 43) as improvidently filed.

4. For the same reasons that the Court dismisses Plaintiffs' claims, the Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997) (overruled on other grounds by *Jones v. Bock*, 549 U.S. 199 (2007)).

This case is **DISMISSED**.

Dated: November 15, 2018

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

¹ The Court also notes that failure to lodge specific objections is sufficient basis, standing alone, for this Court to adopt the Magistrate Judge's Report and Recommendation. *See Cowherd v. Million*, 308 F.3d 909, 912 (6th Cir. 2004) ("Generally, the failure to file specific objections to a magistrate's report constitutes a waiver of those objections.").