

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

RUBY JEAN HUMPHREY

PLAINTIFF

V.

CASE NO. 2:12CV148M-V

**CITIBANK NA, CITI MORTGAGE, INC.,
and CITIGROUP, INC.**

DEFENDANTS

ORDER

This cause comes before the court on defendant's Motion to Dismiss plaintiff's first amended complaint [22]. Upon due consideration of the file and records in this action and the relevant law, including the Report and Recommendation of the United States Magistrate Judge dated July 2, 2013, the court is now prepared to rule.

Plaintiff, Ms. Humphrey, filed an Emergency Motion to Vacate Dismissal and Reinstate Case [26] on July 23, 2013. In the Report and Recommendation, Judge Virden referred the parties to Local Rule 72.2(D) for the applicable procedure in the event any party desired to file objections to the findings and recommendations contained in her report. Further, Judge Virden "warned that any such objections are required to be in writing and must be filed within fourteen (14) days of this date." Ms. Humphrey did not file any type of objection until July 23, 2013, and titled it an Emergency Motion to Vacate Dismissal.

The court notes Ms. Humphrey is proceeding in this action *pro se* but is not excused from the procedures and rules of this court. Plaintiff's motion, if construed as an objection, is untimely. If her motion is construed as a motion to vacate, it is due to be denied because there has been no final judgment in this action, and plaintiff has failed to identify any grounds to support a motion to vacate. The plaintiff's objections are without merit and the Magistrate

Judge's Report and Recommendation should be approved and adopted as the opinion of the court. It is, therefore **ORDERED**:

1. That the Report and Recommendation of the United States Magistrate Judge [25] dated July 2, 2013, is hereby approved and adopted as the opinion of the court.

2. Plaintiff's FHA claim is DISMISSED with prejudice and her MCPA claim is DISMISSED without prejudice.

Accordingly, a separate order shall be issued pursuant to Fed. R. Civ. P. 58.

This the 25th day of September 2013.

A handwritten signature in black ink, appearing to read "Michael P. Mills". The signature is fluid and cursive, with a horizontal line underneath it.

MICHAEL P. MILLS
CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI