

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

19-CV-1716 (JLS)

RITA M. STRATTON, individually and  
as Voluntary Administrator and Heir to  
the Estate of Hugh G. Stratton et al.,

Defendants.

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**DECISION AND ORDER**

On December 27, 2019, Plaintiff United States of America commenced this foreclosure action as to a federal mortgage by decedent Hugh G. Stratton for 12619 Brucker Road, Akron, New York. Dkt. 1. On February 10, 2020, Defendant Rita M. Stratton filed a motion to dismiss on abstention grounds or, alternatively, for Plaintiff's failure to file a Certificate of Merit in alleged violation of Civil Practice Law and Rules § 3012-b. Dkt. 14. On February 11, 2020, this Court<sup>1</sup> referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 15.

On March 31, 2020, Judge Scott issued a Report and Recommendation ("R&R") recommending that the motion to dismiss be denied. Dkt. 22. The parties

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<sup>1</sup> Judge Vilardo was originally assigned to this case and made the referral to Magistrate Judge Scott. On February 18, 2020, this case was reassigned to Judge John L. Sinatra, Jr. Dkt. 17.

did not object to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to deny Stratton's motion to dismiss.

For the reasons stated above and in the R&R, Stratton's motion to dismiss, Dkt. 14, is DENIED. The case is referred back to Judge Scott for further proceedings consistent with the referral order of February 11, 2020, Dkt. 15.

SO ORDERED.

Dated: April 28, 2020  
Buffalo, New York

s/ John L. Sinatra, Jr.  
JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE