

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Case No. 5:21-CV-00083-M-RJ

RAYMOND EARL MAY, JR. and
ANGELA DOLORES MAY,

Plaintiffs,

v.

MARTIN FEIN INTEREST LTD.,

Defendant.

ORDER

This matter comes before the court for review of the Memorandum and Recommendation (the “Recommendation”) filed on February 29, 2024, by Magistrate Judge Robert B. Jones, Jr., in accordance with 28 U.S.C. § 636(b). DE 167. In the Recommendation, Judge Jones recommends that the court grant Defendant Martin Fein Interest Ltd.’s motion for summary judgment [DE 149]. *Id.* at 1, 25. The Recommendation was served on the parties on February 29, 2024. *See id.* at 25-26. Plaintiff filed an Objection outside the time permitted by the Federal Rules of Civil Procedure, along with a request that the court consider the untimely filing on the basis of “Excusable Neglect.” DE 168 at 1.¹ Given the case-dispositive nature of the summary judgment motion and Recommendation, Plaintiffs’ pro se status, and their averred health issues, the court will consider the Objection.

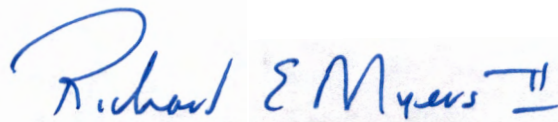
A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence

¹ Plaintiffs also request “a stay on the summary judgment ruling and Order,” DE 168 at 3, citing an inapposite Federal Rule of Civil Procedure, *see* Fed. R. Civ. P. 62(a) (providing for automatic stays of executions of judgments and proceedings to enforce judgments). That request is denied.

or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Plaintiffs’ Objection does not identify any error in the Magistrate Judge’s reasoning. *See* DE 168 at 2 (arguing only generally that “Plaintiffs deserve and have the right for them to present their case and be tried by a Judge or jury”). Such an objection does not entitle Plaintiffs to de novo review. Accordingly, the court has carefully reviewed the Recommendation and the record for clear error and finds none. The court therefore ADOPTS the Recommendation [DE 167] and GRANTS Defendant’s summary judgment motion [DE 149]. The Clerk of Court is directed to close this case.

SO ORDERED this 27th day of March, 2024.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE