UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO WESTERN DIVISION

NATIONAL CITY COMMERCIAL CAPITAL COMPANY, LLC,

Plaintiff

v. C-1-08-468

CALIBER HOMES, LLC, et al.,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 37) to which no objections have been filed.

Upon a *de novo* review of the record, the Court finds that the Judge has accurately set forth the applicable law and has properly applied it to the particular facts of this case. Accordingly, in the absence of any objection by plaintiff, this Court accepts the Report as uncontroverted.

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The Report and Recommendation of the United States Magistrate

Judge (doc. no. 37) is hereby ADOPTED AND INCORPORATED HEREIN BY

REFERENCE. Defendant's Motion to Dismiss the Amended Complaint

(doc. no. 19) is DENIED.

This case is **RECOMMITTED** to the United States Magistrate Judge for further proceedings according to law.

IT IS SO ORDERED.

s/Herman J. Weber

Herman J. Weber, Senior Judge
United States District Court