

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

WASHINGTON PERES, et al.,  
Plaintiff,

Case No. 1:18-cv-0018  
Barrett, J.  
Litkovitz, M.J.

vs.

THIRD FEDERAL SAVINGS AND  
LOAN ASSOCIATION OF CLEVELAND, et al.,  
Defendants.


**REPORT AND  
RECOMMENDATION**

This matter is before the Court on defendant Third Federal Savings and Loan Association of Cleveland's motion to dismiss plaintiffs' original complaint for failure to name a necessary party and for failure to properly plead claims for fraud/misrepresentation and breach of contract. (Doc. 2). On February 22, 2018, plaintiffs filed an amended complaint (Doc. 4), to which defendant Third Federal filed an answer (Doc. 7).

In view of the filing of an amended complaint, which supersedes the original complaint, *see Calhoun v. Bergh*, 769 F.3d 409, 410 (6th Cir. 2014), defendant Third Federal's motion to dismiss should be **DENIED** as moot. *See Clark v. Johnston*, 413 F. App'x 804, 811 (6th Cir. 2011).

**IT IS SO RECOMMENDED.**

Date: 7/23/18

  
Karen L. Litkovitz  
United States Magistrate Judge

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**NOTICE**

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).