

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DORAIN KING, *et. al.*,

Plaintiffs,

v.

Civil Action 2:12-cv-1029  
Judge Michael H. Watson  
Magistrate Judge Elizabeth P. Deavers

CITIMORTGAGE, INC., *et. al.*,

Defendants.

**REPORT AND RECOMMENDATION**

Plaintiff filed this action on November 7, 2012. The docket indicates that Plaintiff has yet to perfect service on Defendant ABN Amro Mortgage, and the time for her to do so pursuant to Rule 4(m) of the Federal Rules of Civil Procedure has expired.<sup>1</sup> On March 20, 2013, the Court entered an Order directing Plaintiff to show cause why her claims against ABN Amro Mortgage should not be dismissed. Plaintiff has not responded to the Court's Order. Due to Plaintiff's failure to serve ABN Amro Mortgage within the time limit set forth in Rule 4(m) and her failure to establish good cause to extend the service time, it is **RECOMMENDED** that

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<sup>1</sup>Rule 4(m) provides in pertinent part:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

Plaintiff's claims against ABN Amro Mortgage be **DISMISSED WITHOUT PREJUDICE**.

### **PROCEDURE ON OBJECTIONS**

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that "failure to object to the magistrate judge's recommendations constituted a waiver of [the defendant's] ability to appeal the district court's ruling"); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court's denial of pretrial motion by failing to timely object to magistrate judge's report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) ("[A] general objection to a magistrate judge's report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal . . .") (citation omitted)).

Date: April 24, 2013

/s/ Elizabeth A. Preston Deavers

Elizabeth A. Preston Deavers  
United States Magistrate Judge