IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JAMES R. MULLINS, JR.,

Plaintiff,

Case No. 3:12-cv-131

District Judge Timothy S. Black
Magistrate Judge Michael R. Merz

-vs-

:

BANK OF AMERICA CORP.,

Defendant.

REPORT AND RECOMMENDATIONS

This case is a purported removal to federal court of an action pending in the Common Pleas Court of Preble County, Ohio. James R. Mullins, Jr., who lists himself as Plaintiff in this case, purports to be one of the Defendants in the Preble County case.

Upon initial review of the case, the Magistrate Judge ordered Mr. Mullins to perform various acts needed to conform to the removal procedure statute (Doc. No. 5). According to the docket, none of those acts has been performed. That is, Mr. Mullins has not obtained the consent of all Defendants in the state court case to removal, he has not filed in this Court copies of all the process served on him in the state court proceedings, and he has not certified to this Court that he has notified the Preble County Common Pleas Court that his notice to him that this case was removed as of April 26, 2012, was incorrect.

It appears to this Court that Mr. Mullins may be attempting to use this Court's process to improperly impede the process of the Preble County Common Pleas Court. To prevent that abuse of this Court and because he has not complied with the Order of May 1, 2012, it is

respectfully recommended that this case be dismissed without prejudice for want of prosecution and failure to comply with the Court's Order.

May 17, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed.R.Civ.P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed.R.Civ.P. 6(e), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed.R.Civ.P. 5(b)(2)(B), (C), or (D) and 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 in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of 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 fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See, United States v. Walters,* 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn,* 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).