

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

JENNY BOWELL, *et al.*,

Plaintiffs,

Case No. 3:16-cv-52

vs.

MOWERY CONSTRUCTION, INC, *et al.*,

District Judge Thomas M. Rose

Magistrate Judge Michael J. Newman

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION (DOC. 14)**

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The Court has reviewed the Report and Recommendation of Magistrate Judge Michael J. Newman (Doc. 14), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby **ADOPTS** said Report and Recommendation.

Accordingly, it is hereby **ORDERED** that: (1) the Report and Recommendation (Doc. 14) is **ADOPTED** in full; (2) Defendant Haas Cabinet Company, Inc.'s motion for partial judgment on the pleadings (doc. 10) is **GRANTED IN PART AND DENIED IN PART**; (3) Plaintiffs' OCSPA claims based upon failure to repair a defect covered by warranty remain pending; (4) Plaintiffs' OCSPA claims based upon Haas's failure to maintain a statutory agent in Ohio are **DISMISSED**; (5) Plaintiffs' claims under Ohio Rev. Code § 4722.01, Ohio Admin. Code § 109:4-3-05, and for fraud and deceit are **DISMISSED**; and (6) Plaintiffs' claims for breach of contract and/or breach of an implied-in-fact contract are **DISMISSED**.

**IT IS SO ORDERED.**

Date: November 30, 2016

\*s/THOMAS M. ROSE

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Thomas M. Rose  
United States District Judge