

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

JAMES R. MULLINS, <i>et al.</i> , Plaintiffs, v. PENNY MAC LOAN SERVICES, LLC, <i>et al.</i> , Defendants.	: : : :	Case No. 3:16-cv-137 JUDGE WALTER H. RICE
---	------------------------------	--

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE JUDGE’S REPORT AND RECOMMENDATIONS (DOC. #49); SUSTAINING DEFENDANTS GOVERNMENT NATIONAL MORTGAGE ASSOCIATION AND UNITED STATES DEPARTMENT OF AGRICULTURE’S UNOPPOSED MOTION TO DISMISS (DOC. #47), AND DISMISSING WITHOUT PREJUDICE ALL CLAIMS AGAINST THEM FOR LACK OF SUBJECT MATTER JURISDICTION; DISMISSING WITHOUT PREJUDICE ALL CLAIMS AGAINST FRIENDLY FINANCIAL SERVICES, ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT, AND DOES 1-100; JUDGMENT TO ENTER IN FAVOR OF DEFENDANTS AND AGAINST PLAINTIFFS; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael R. Merz, in his October 18, 2016, Report and Recommendations (Doc. #49), as well as upon a thorough *de novo* review of this Court’s file and the applicable law, the Court ADOPTS said judicial filing in its entirety, SUSTAINS Defendants Government National Mortgage Association and United States Department of Agriculture’s unopposed Motion to Dismiss (Doc.

#47), and DISMISSES WITHOUT PREJUDICE all claims asserted against them, for lack of subject matter jurisdiction. The Court notes that, although the parties were notified of their right to file Objections to the Report and Recommendations, and of the consequences of failing to do so, no Objections have been filed within the time allotted.

As Magistrate Judge Merz pointed out, Defendant Friendly Financial Services was never served with a copy of the Complaint and Summons, *see* Doc. #42, and Plaintiffs have failed to show good cause for the failure of service. Likewise, the record indicates that Defendants identified in the Complaint as "All Persons Unknown, claiming any Legal or Equitable Right, Title, Estate, Lien, or Interest in the Property Described in the Complaint Adverse to Plaintiffs' Title or Any Cloud on Plaintiffs' Title Thereto," and "Does 1-100, inclusive," have never been identified or served with a copy of the Complaint and Summons. Accordingly, all claims against these Defendants are DISMISSED WITHOUT PREJUDICE.

All claims against Defendants Penny Mac Loan Services, LLC, Bank of America, N.A., Mortgage Electronic Registration, Inc., Laurito and Laurito, LLC, and Deutsche Bank Trust Company, have previously been dismissed. Docs. ##43, 46.

Given that all claims asserted in the Complaint have now been dismissed, judgment shall be entered in favor of Defendants and against Plaintiffs.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: November 14, 2016

A handwritten signature in black ink, appearing to read "Walter H. Rice", written over a horizontal line.

WALTER H. RICE
UNITED STATES DISTRICT JUDGE