

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION**

**HENRY JEROME DECKER, SR.,** )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
**GEMB LENDING, INC.,** a Delaware )  
 corporation; and **SANTANDER** )  
**CONSUMER USA INC.,** an Illinois )  
 corporation, )  
 )  
 Defendants. )  
\_\_\_\_\_)

No. 3:12-cv-00632-AC

**OPINION AND ORDER ADOPTING  
FINDINGS AND RECOMMENDATION**

**SIMON, District Judge.**

Magistrate Judge John V. Acosta issued findings and recommendations in the above-captioned case on September 13, 2012. Dkt. 19. Judge Acosta recommended that Defendant Santander Consumer USA Inc.’s Motion to Dismiss be granted in part and denied in part. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the

court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe a standard of review. In such cases, “[t]here is no indication that Congress . . . intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*), *cert. denied*, 540 U.S. 900 (2003) (the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Acosta’s findings and recommendation for clear error on the face of the record. No such error is apparent. Therefore the court orders that Judge Acosta’s findings and recommendation, Dkt. 19, are ADOPTED. The Motion to Dismiss, Dkt. 5, is GRANTED IN PART and DENIED IN PART. Plaintiff’s Fourth Claim for Relief for common-law fraud and Fifth Claim for Relief for common-law negligence are dismissed with leave to amend.

Dated this 25th day of October, 2012.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge