IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

THEODORE (TED) E. DAUVEN, BARBARA G. DAUVEN, AND CHRISTIANA C. DAUVEN, 3:13-CV-00844-AC

ORDER

Plaintiffs,

v.

U.S. BANCORP; U.S. BANK NATIONAL ASSOCIATION, as trustee for MASTR ASSET BACKED SECURITIES TRUST, 2006-WMC2; WELLS FARGO AND COMPANY; IAN REEKIE; REEKIE PROPERTIES, LLC; J.R. OLEYAR; DANIEL STAUFFER; SHAWNA STAUFFER; RANDALL STAUFFER; CHRISTINA STAUFFER; ELIZABETH BALKOVIC ALLAN; TERESA BALKOVIC; MARY MARGARET WEIBEL; SAMUEL TAYLOR V; and ANNIE MECKLEY TENNESON,

Defendants.

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BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#217) on March 2, 2015, in which he recommends the Court grant in part and deny as moot in part Defendants' Motions to Dismiss (#180, #181, #184, #190, #200, #207, #208, #209) and decline to exercise supplemental jurisdiction over Plaintiffs' state-law claims. Magistrate Judge Acosta also recommends the Court dismiss without prejudice Plaintiffs' Second Amended Complaint (#170) and grant Plaintiffs leave to file a third amended complaint to cure the deficiencies set out in the Findings and Recommendation. Plaintiffs filed timely Objections. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*).

In their Objections Plaintiffs reiterate the arguments contained in their Response to Defendants' Motions. This Court has carefully considered Plaintiffs' Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent

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portions of the record *de novo* and does not find any error in the Findings and Recommendation. The Court, however, modifies the Findings and Recommendation as follows:

As noted, the Magistrate Judge recommends this Court grant Plaintiffs leave to file a third amended complaint to cure the deficiencies set out in the Findings and Recommendation. The Ninth Circuit has made clear that when a plaintiff fails to state a claim, "[1]eave to amend should be granted unless the pleading 'could not possibly be cured by the allegation of other facts,' and should be granted more liberally to pro se plaintiffs." Alcala v. Rios, 434 F. App'x 668, 670 (9th Cir. 2011)(quoting Ramirez v. Galaza, 334 F.3d 850, 861 (9th Cir. 2003)). The Court, however, notes in the two years this matter has been pending Plaintiffs have filed three lengthy Complaints to attempt to cure the deficiencies noted by the Magistrate Judge and this Court. Plaintiffs, however, have still failed to state adequately any claim. Accordingly, the Court grants Defendants' Motions to Dismiss with prejudice as to Plaintiffs' federal claims (Claims 1-3, 7-9). In addition, the Court, in the exercise of its discretion, declines to exercise supplemental jurisdiction over Plaintiffs' state-law claims (Claims 4-6, 10-12) and, therefore, dismisses those claims without prejudice.

CONCLUSION

The Court ADOPTS as modified Magistrate Judge Acosta's Findings and Recommendation (#217). Accordingly, the Court GRANTS Defendants' Motions to Dismiss (#180, #181, #184, #190, #200, #207, #208, #209); DISMISSES Plaintiffs' Claims 1-3 and 7-9 with prejudice; DISMISSES Plaintiffs' Claims 4-6 and 10-12 without prejudice; and DISMISSES this matter in its entirety without further leave to amend.

IT IS SO ORDERED.

DATED this 12^{th} day of May, 2015.

/s/ Anna J. Brown

ANNA J. BROWN United States District Judge