

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRIDGET M. BEHR,)	
)	
Plaintiff,)	Case No. 1:14-cv-291
)	
v.)	Judge Mark R. Hornak
)	Magistrate Judge Lisa Pupo Lenihan
FEDERAL HOME LOAN)	
MORTGAGE CORP., <i>et al.</i> ,)	ECF No. 4
)	
Defendants.)	
)	

MEMORANDUM ORDER

The Complaint in the above captioned case was filed in the Court of Common Pleas of Erie County, Pennsylvania on or about October 16, 2014. Thereafter, this action was removed to this Court by Defendants on November 20, 2014, and was subsequently referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

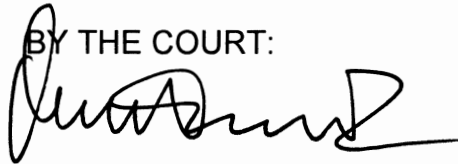
The Magistrate Judge's Report and Recommendation ("R&R") (ECF No. 12), filed on July 29, 2015, recommended that Defendants' Motion to Dismiss (ECF No. 4) be denied. Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. No objections were filed to the Report and Recommendation.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 1st day of September, 2015,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss (ECF No. 4) is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 12) of Magistrate Judge Lenihan, dated July 29, 2015, is adopted as the Opinion of the Court, as modified by this Order¹.

BY THE COURT:


MARK R. HORNAK
United States District Judge

cc: All Counsel of Record
Via Electronic Mail

¹ As the R&R explains at its footnote 5, Count II of the Complaint essentially pleads the substance of certain matters contained in certain of the Defendant's discovery responses in a separate civil action. The Court therefore need not reach the question of whether those discovery responses are to be considered public records which the Court may consider in resolving a Motion to Dismiss. Further, the Court concludes that the R&R is correct in recommending that the Motion to Dismiss on the basis of the *Merrill* Doctrine be denied without prejudice at this juncture, in that Count II of the Complaint appears to set forth sufficient allegations that the alleged impermissible conduct was authorized by the principal to the alleged agency relationship.